

WSR 21-22-001
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-235—Filed October 20, 2021, 2:20 p.m., effective October 20, 2021, 2:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule closes commercial nonspot shrimp pot harvest in Shrimp Management Area 2 West.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000Q; and amending WAC 220-340-520.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Permanent rules regulating state commercial shrimp harvest in Puget Sound and the Strait of Juan de Fuca require adoption of harvest seasons contained in this emergency rule.

This emergency regulation closes commercial nonspot shrimp pot harvest in Shrimp Management Area 2 West, effective immediately. Sections of this regulation define open areas to allow adequate flexibility for the state commercial shrimp fisheries to respond to dynamic changes in market conditions and to allow for full utilization of both the commercial spot and nonspot shares while also achieving the 50/50 harvest defined by the federal court order. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 20, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000R Puget Sound shrimp pot and trawl fishery—
Season. Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp Pot Harvests:

(a) Marine Fish Shellfish Catch Reporting Area 25A is open to the commercial harvest of non-spot shrimp by pots through October 30, 2021 at 11:59 p.m.

(b) There is no minimum size limit for spot shrimp or non-spot shrimp.

(c) Shrimp pot gear used for commercial harvest must meet the following requirements:

(i) A shrimp pot may not exceed a maximum 153 inch bottom perimeter and a maximum of 24 inch height.

(ii) The entire top, bottom, and sides of the shrimp pot must be constructed of mesh material. Use of liners is prohibited.

(iii) Entrance tunnels to shrimp pots may be constructed of any size mesh material. All entrance tunnels must open into the pot from the side. The sum of the maximum widths of all entrance tunnel openings must not exceed half of the perimeter of the bottom of the pot.

(iv) Spot shrimp may only be harvested using pots with a minimum mesh size of 1 inch. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1-3/4 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(v) Non-spot shrimp may only be harvested using pots with a minimum mesh size 1/2 inch. Mesh of 1/2 inch is defined as a mesh that a 3/8 inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be at a minimum 1 1/8 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(d) Buoys must have the number of pots deployed per groundline recorded on each end-buoy of a groundline.

(e) It is lawful to concurrently deploy spot shrimp pots and non-spot pots with the following restrictions:

(i) Spot pots and non-spot pots may not be deployed concurrently within the same Marine Fish/Shellfish Catch Reporting Area, with the following exceptions:

(A) Spot and non-spot pots may be concurrently deployed in Marine Fish/Shellfish Catch Reporting Area 23A but not within the same sub-area (23A-E, 23A-W, 23A-C, or 23A-S).

(B) Non-spot pots may be deployed within Sequim Bay, defined as that portion of Marine Fish/Shellfish Catch Reporting Area 25A south of a line true west from Travis Spit to the Miller Peninsula, concurrently with spot shrimp pots in the remaining portion of 25A outside of Sequim Bay.

(ii) All shrimp harvested must be landed and recorded on a shellfish receiving ticket before subsequent harvest may occur.

(f) Each fisher or alternate operator is required to report their intended catch area of harvest, target species (spot or non-spot), and the amount of pounds that are being targeted prior to the deployment of any shrimp gear to either shrimp.report@dfw.wa.gov, by text message to 360-302-6372, or by other electronic means designated by the Department.

(g) It is unlawful to harvest non-spot and spot shrimp in the same day.

It is unlawful to harvest shrimp in more than one Shrimp Management Area (1A, 1B, 1C, 2E, 2W, 3, 4, 5, or 6) per day.

(2) Shrimp Non-spot Pot Harvest Restrictions:

(a) The non-spot shrimp catch accounting period is weekly, from 12:00 a.m. on Wednesdays through 11:59 p.m. on Tuesdays.

(b) Harvest of non-spot shrimp is not permitted deeper than 175 feet in Region 2W. Region 2W is comprised of Catch Areas 25B, 25C, 25D, and 26AW.

(3) All shrimp taken under this section must be sold to licensed Washington State wholesale fish dealers.

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Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-340-52000Q Puget Sound shrimp pot trawl fishery—
Season. (21-232)

WSR 21-22-002

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed October 20, 2021, 3:06 p.m., effective October 20, 2021, 3:06 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To modify requirements in WAC 51-11R-40310 to temporarily rescind the prohibition for gas fireplaces with continuously burning pilot lights.

Citation of Rules Affected by this Order: Amending WAC 51-11R-40310.

Statutory Authority for Adoption: RCW 19.27A.045.

Other Authority: RCW 19.27A.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state building code council was notified by the industry that because of the current global microchip shortage, they are not able to meet this new requirement in the energy code. After the initial 120 emergency rule, the industry was still unable to supply the required controls and asked that the council enter into rule making to allow a year extension before the requirements become effective. On September 28, 2021, the state building code council began the permanent rule-making process for the effective date extension. See WSR 21-20-057. The emergency rule is being extended until the adoption of this permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 20, 2021.

Andrew S. Klein
Council Chair

OTS-3164.1

AMENDATORY SECTION (Amending WSR 20-01-047, filed 12/9/19, effective 7/1/20)

WAC 51-11R-40310 Section R403.1—Controls.

R403.1 Controls. At least one thermostat shall be provided for each separate heating and cooling system.

R403.1.1 Programmable or connected thermostat. Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be Energy Star certified and capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. The thermostat shall allow for, at a minimum, a 5-2 programmable schedule (weekdays/weekends) and be capable of providing at least two programmable set-back/setup periods per day. This thermostat shall include the capability to set back, set up or temporarily operate the system to maintain zone temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed by the manufacturer with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C). The thermostat and/or control system shall have an adjustable deadband of not less than 10°F.

EXCEPTIONS:

1. Systems controlled by an occupant sensor that is capable of shutting the system off when no occupant is sensed for a period of up to 30 minutes.
2. Systems controlled solely by a manually operated timer capable of operating the system for no more than two hours.
3. Ductless mini-split heat pump systems that have an integral proprietary thermostat.

R403.1.2 Heat pump supplementary heat. Unitary air cooled heat pumps shall include controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators). Heat pumps equipped with supplementary heaters shall be installed with controls that prevent supplemental heater operation above 40°F. At final inspection the auxiliary heat lock out control shall be set to 35°F or less.

R403.1.3 Continuously burning pilot lights. The natural gas systems and equipment listed below are not permitted to be equipped with continuously burning pilot lights.

1. Fan-type central furnaces.
2. Household cooking appliances.

EXCEPTION: Household cooking appliances without electrical supply voltage connections and in which each pilot light consumes less than 150 Btu/hr.

3. Pool heaters.
4. Spa heaters.
- (~~5. Fireplaces.~~)

EXCEPTION: ~~Any fireplace with on-demand, intermittent or interrupted ignition (as defined in ANSI Z21.20) is not considered continuous.)~~

[Statutory Authority: RCW 19.27A.020, 19.27A.045, 19.27A.160 and chapter 19.27 RCW. WSR 20-01-047, § 51-11R-40310, filed 12/9/19, effective 7/1/20. Statutory Authority: RCW 19.27A.020, 19.27A.045, 19.27A.160, and 19.27.074. WSR 16-02-127, § 51-11R-40310, filed 1/6/16, effective 7/1/16. Statutory Authority: RCW 19.27A.020, 19.27A.045 and chapters 19.27 and 34.05 RCW. WSR 13-04-055, § 51-11R-40310, filed 2/1/13, effective 7/1/13.]

WSR 21-22-006
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed October 21, 2021, 10:16 a.m., effective October 21, 2021, 10:16 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To reinsert erroneously removed code back into chapter 51-50 WAC specifically addressing elevator car/ambulance stretcher requirements for R-1, R-2 and I occupancies.

Citation of Rules Affected by this Order: New 1.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To more clearly define elevator car and ambulance stretcher requirements and provide more stringent requirements for R-1, R-2 and I occupancies.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 15, 2021.

Andrew S. Klein
Chair

OTS-3421.1

AMENDATORY SECTION (Amending WSR 20-01-090, filed 12/12/19, effective 7/1/20)

WAC 51-50-30020 ((Reserved.)) Section 30020—Hoistway enclosures. 3002.4 Elevator car to accommodate ambulance stretcher. In buildings provided with an elevator, at least one elevator shall provide fire department emergency access to all floors served in:

1. Buildings four or more stories above or below grade plane; and
2. Any R-1, R-2 or I occupancy building regardless of the number of stories.

The elevator car shall be of a size and arrangement to accommodate a 24-inch by 84-inch (610 mm by 2134 mm) ambulance stretcher with not less than 5-inch (127 mm) radius corners, in the horizontal, open

position. The elevator shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) in height and shall be placed inside on both sides of the hoistway door frame on both the designated level and the alternate level.

EXCEPTION: Private residence elevators are not required to comply with this section.

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-01-090, § 51-50-30020, filed 12/12/19, effective 7/1/20; WSR 16-03-064, § 51-50-30020, filed 1/19/16, effective 7/1/16.]

WSR 21-22-008
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed October 21, 2021, 12:04 p.m., effective October 21, 2021, 12:04 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To strike amended WAC 51-54A-8200 International Wildland Urban Interface Code, from the International Fire Code and reserve section.

Citation of Rules Affected by this Order: New 1.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state building code council (SBCC) was notified by local jurisdictions that the mapping, RCW, and WAC did not align to produce an enforceable code. SBCC agreed to delete the state amendment and to add the Wildland Urban Interface Code to the group 2 rule-making process. This would assist local jurisdictions to provide more public comment and allow SBCC to produce a more accurate and enforceable code. SBCC will be moving into rule making to make the Wildland Urban Interface Code a standalone code with state amendments.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 19, 2021.

Andrew S. Klein
Chair

OTS-3416.1

AMENDATORY SECTION (Amending WSR 20-01-162, filed 12/18/19, effective 7/1/20)

WAC 51-54A-8200 (~~(International Wildland Urban Interface Code.)~~)
Reserved.

~~((101.5 Additions or alterations. Additions or alterations may be made to any building or structure without requiring the existing~~

building or structure to comply with all of the requirements of this code, provided the addition or alteration conforms to that required for a new building or structure.

EXCEPTION: Provisions of this code that specifically apply to existing conditions are retroactive. See Sections 402.3, 601.1 and Appendix A.

Additions or alterations shall not cause the existing building or structure to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or structure to become structurally unsafe or overloaded; will not provide adequate access in compliance with the provisions of this code or will obstruct existing exits or access; will create a fire hazard; will reduce required fire resistance or will otherwise create conditions dangerous to human life.

108.3 Site plan. In addition to the requirements for plans in the *International Building Code*, the code official may require site plans which include topography, width and percent of grade of access roads, landscape and vegetation details, locations of structures or building envelopes, existing or proposed overhead utilities, occupancy classification of buildings, types of ignition resistant construction of buildings, structures and their appendages, roof classification of buildings, and site water supply systems. The code official is authorized to waive or modify the requirement for a site plan.

108.4 Vegetation management plans. When required by the code official or when utilized by the permit applicant pursuant to Section 502, vegetation management plans shall be prepared and shall be submitted to the code official for review and approval as part of the plans required for a permit. See Appendix B.

108.7 Vicinity plan. When required by the code official, the requirements for site plans shall include details regarding the vicinity within 300 feet (91,440 mm) of property lines, including other structures, slope, vegetation, fuel breaks, water supply systems and access roads.

402.1.1 Access. New subdivisions, as determined by this jurisdiction, shall be provided with fire apparatus access roads in accordance with the *International Fire Code*.

402.1.2 Water supply. New subdivisions, as determined by this jurisdiction, shall be provided with water supply in accordance with the *International Fire Code*.

402.2 Individual structures. Individual structures shall comply with Sections 402.2.1 and 402.2.2.

402.2.1 Access. Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with fire apparatus access in accordance with the *International Fire Code*.

402.2.2 Water supply. Individual structures hereafter constructed or relocated into or within wildland-urban interface areas shall be provided with a conforming water supply in accordance with the *International Fire Code*.

EXCEPTIONS: 1. Structures constructed to meet the requirements for the class of ignition-resistant construction specified in Table N503.1 for a nonconforming water supply.
2. Buildings containing only private garages, carports, sheds and agricultural buildings with a floor area of not more than 600 square feet (56 m²).

402.3 Existing conditions. Existing address markers, roads and fire protection equipment shall be in accordance with the *International Fire Code*.

Table 503.1
Ignition-Resistant Construction^a

Defensible Space ^c	Fire Hazard Severity					
	Moderate Hazard		High Hazard		Extreme Hazard	
	Water Supply ^b		Water Supply ^b		Water Supply ^b	
	Conforming	Nonconforming	Conforming	Nonconforming	Conforming	Nonconforming
Nonconforming	IR 2	IR 1	IR 1	IR 1 N.C.	IR 1 N.C.	Not Permitted
Conforming	IR 3	IR 2	IR 2	IR 1	IR 1	IR 1 N.C.
1.5 x Conforming	Not Required	IR 3	IR 3	IR 2	IR 2	IR 1

^aAccess shall be in accordance with Section 402.

^bWater supply shall be in accordance with Section 402.1.

IR 1 = Ignition-resistant construction in accordance with Section 504.

IR 2 = Ignition-resistant construction in accordance with Section 505.

IR 3 = Ignition-resistant construction in accordance with Section 506.

N.C. = Exterior walls shall have a fire-resistance rating of not less than 1 hour and the exterior surfaces of such walls shall be noncombustible. Usage of log wall construction is allowed.

^cConformance based on Section 603.

~~403 Access. This section not adopted.~~

~~404 Water supply. This section not adopted.~~

~~APPENDIX B VEGETATION MANAGEMENT PLAN — THIS APPENDIX IS ADOPTED.~~

~~APPENDIX D FIRE DANGER RATING SYSTEM — THIS APPENDIX IS ADOPTED.))~~

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-01-162, § 51-54A-8200, filed 12/18/19, effective 7/1/20. Statutory Authority: Chapter 19.27 RCW and RCW 19.27.031. WSR 17-10-028, § 51-54A-8200, filed 4/25/17, effective 5/26/17. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-8200, filed 1/16/16, effective 7/1/16.]

WSR 21-22-010

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed October 21, 2021, 1:57 p.m., effective October 21, 2021, 1:57 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend chapter 51-50 WAC of the International Building Code, regarding Chapter 35 Reference Standards, specifically addressing elevator pit sprinklers.

Also, to amend chapter 51-54A WAC of the International Fire Code, regarding Chapter 80 Reference Standards, specifically addressing elevator pit sprinklers.

Citation of Rules Affected by this Order: New 2.

Statutory Authority for Adoption: RCW 19.27.031.

Other Authority: RCW 19.27.074.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The requirement for fire sprinklers in pits of hydraulic elevators is predicated by the amount of debris that is collected in the pit and the potential of an ignition source that could cause a fire. With the advent of hydraulic fluids that are combustible but at flashpoints near 450°F, the lack of ignition sources (cigarette use in buildings has significantly decreased), the reduction of combustible materials found in elevator pits, and the significant reduction nationally in the amount of elevator pit fires (see National Fire Protection Association (NFPA) data attached), the need for a fire sprinkler in the pit and elevator equipment room [has] been significantly reduced. NFPA 13 has included language in the code commentary that the requirement of sprinklers in the pit needs to be evaluated for benefit compared to the additional cost to install sprinklers, additional detection, and a shunt trip to accommodate shutting off the power to the elevator before fire sprinklers are activated. Further, when the power [is] turned off to the elevators it could trap someone who is using the elevator. For that reason, some fire departments do not use elevators during a fire event as they would not have full control of it and responders could become trapped in the elevator.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 2, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 21, 2021.

Andrew S. Klein
Chair

OTS-3418.1

AMENDATORY SECTION (Amending WSR 20-21-021, filed 10/9/20, effective 11/9/20)

WAC 51-50-3500 Chapter 35—Referenced standards. Add the reference standards as follows:

Standard reference number	Title	Referenced in code section number
ANSI/APA PRG-320-18	Standard for Performance-Rated Cross-Laminated Timber (revised 2018)	602.4, 2303.1.4
NFPA 130-17	Standard for Fixed Guideway Transit and Passenger Rail Systems	3101.1, 3114
NFPA 13-16	Standard for the Installation of Sprinkler Systems (except 8.15.5.3(5))	403.3.3, 712.1.3.1, 903.3.1.1, 903.3.2, 903.3.8.2, 903.8.5, 904.13, 905.3.4, 907.6.4, 1019.3

[Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 20-21-021, § 51-50-3500, filed 10/9/20, effective 11/9/20; WSR 20-01-090, § 51-50-3500, filed 12/12/19, effective 7/1/20; WSR 19-02-038, § 51-50-3500, filed 12/26/18, effective 7/1/19; WSR 16-03-064, § 51-50-3500, filed 1/19/16, effective 7/1/16. Statutory Authority: RCW 19.27.031 and chapters 19.27 and 34.05 RCW. WSR 13-04-067, § 51-50-3500, filed 2/1/13, effective 7/1/13.]

OTS-3419.1

AMENDATORY SECTION (Amending WSR 19-02-086, filed 1/2/19, effective 7/1/19)

WAC 51-54A-8000 Referenced standards.

NFPA 13-16: Standard for the Installation of Sprinkler Systems (except 8.15.5.3(5)) 903.3.1.1, 903.3.2, 903.3.8.2, 903.3.8.5, 904.13, 905.3.4, 907.6.4, 914.3.2, 1019.3, 1103.4.8, 3201.1, 3204.2, 3205.5, Table 3206.2, 3206.4.1, 3206.10, 3207.2, 3207.2.1, 3208.2.2, 3208.2.2.1, 3208.4, 3210.1, 3401.1, 5104.1, 5104.1.1, 5106.5.7, 5704.3.3.9, Table 5704.3.6.3(7), 5704.3.7.5.1, 5704.3.8.4

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations 609.3

NFPA 720-15 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units 1103.9

NFPA 130-17 Standard for Fixed Guideway Transit and Passenger Rail Systems 3901.1

[Statutory Authority: RCW 19.27.031, 19.27.074 and chapter 19.27 RCW. WSR 19-02-086, § 51-54A-8000, filed 1/2/19, effective 7/1/19. Statutory Authority: RCW 19.27.031 and 19.27.074. WSR 16-03-055, § 51-54A-8000, filed 1/16/16, effective 7/1/16. Statutory Authority: RCW 19.27A.031, 19.27.074 and chapters 19.27 and 34.05 RCW. WSR 13-04-063, § 51-54A-8000, filed 2/1/13, effective 7/1/13.]

WSR 21-22-014

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed October 21, 2021, 3:43 p.m., effective October 21, 2021, 3:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To modify requirements in chapter 51-11R WAC to allow the partial installation of heat pumps to receive the credit allotted under Table C406.3 during the current lack of compressors and/or parts.

Citation of Rules Affected by this Order: Amending WAC 51-11R-10400 and 51-11R-46021.

Statutory Authority for Adoption: RCW 19.27A.045.

Other Authority: RCW 19.27A.020.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state building code council was notified by the industry that because of the current global microchip shortage, they are not able to obtain the outdoor portion of residential heat pumps. Because the equipment is [a] frequently installed component to achieving the required energy credits in the residential energy code, there is a concern that projects already permitted and in construction will not be able to obtain a certificate of occupancy, which in turn can also affect the financing. This emergency rule is being adopted to specify that homes can still receive the certificate of occupancy and the required energy credits while still waiting on installation of the outdoor compressor unit.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 15, 2021.

Andrew S. Klein
Council Chair

OTS-3423.1

AMENDATORY SECTION (Amending WSR 20-21-081, filed 10/19/20, effective 2/1/21)

WAC 51-11R-10400 Section R104—Inspections.

R104.1 General. Construction or work for which a permit is required shall be subject to inspection by the *code official* or his or her designated agent, and such construction or work shall remain visible and able to be accessed for inspection purposes until *approved*. It shall be the duty of the permit applicant to cause the work to remain visible and able to be accessed for inspection purposes. Neither the *code official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material, product, system or building component required to allow inspection to validate compliance with this code.

R104.2 Required inspections. The *code official* or his or her designated agent, upon notification, shall make the inspections set forth in Sections R104.2.1 through R104.2.5.

R104.2.1 Footing and foundation inspection. Inspections associated with footings and foundations shall verify compliance with the code as to R-value, location, thickness, depth of burial and protection of insulation as required by the code and approved plans and specifications.

R104.2.2 Framing and rough-in inspection. Inspections at framing and rough-in shall be made before application of interior finish and shall verify compliance with the code as to types of insulation and corresponding R-values and their correct location and proper installation; fenestration properties (*U*-factor and SHGC) and proper installation; and air leakage controls as required by the code and approved plans and specifications.

R104.2.2.1 Wall insulation inspection. The *code official*, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the International Residential Code. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.

R104.2.3 Plumbing rough-in inspection. Inspections at plumbing rough-in shall verify compliance as required by the code and approved plans and specifications as to types of insulation and corresponding R-values and protection, and required controls.

R104.2.4 Mechanical rough-in inspection. Inspections at mechanical rough-in shall verify compliance as required by the code and approved plans and specifications as to installed HVAC equipment type and size, required controls, system insulation and corresponding R-value, system air leakage control, programmable thermostats, dampers, whole-house ventilation and minimum fan efficiency.

EXCEPTION: Systems serving multiple dwelling units shall be inspected in accordance with Section C104.2.4.

R104.2.5 Final inspection. The building shall have a final inspection and not be occupied until *approved*.

EXCEPTION: The final certificate of occupancy shall not be withheld pending the installation of the outdoor unit of a heat pump, if the dwelling unit is capable of maintaining the heating required by Section R303.10 of the *International Residential Code* or Section 1203.1 of the *International Building Code*, and a completed contract for installation of the outdoor portion as soon as the equipment is available from the distributor is submitted to the *code official*.

R104.3 Reinspection. A building shall be reinspected when determined necessary by the *code official*.

R104.4 Approved inspection agencies. The *code official* is authorized to accept reports of third-party inspection agencies not affiliated with the building design or construction, provided such agencies are *approved* as to qualifications and reliability relevant to the building components and systems they are inspecting.

R104.5 Inspection requests. It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

R104.6 Reinspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

R104.7 Approval. After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

R104.7.1 Revocation. The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

[Statutory Authority: RCW 19.27A.045 and chapter 19.27A RCW. WSR 20-21-081, § 51-11R-10400, filed 10/19/20, effective 2/1/21. Statutory Authority: RCW 19.27A.020, 19.27A.045, 19.27A.160 and chapter 19.27 RCW. WSR 20-01-047, § 51-11R-10400, filed 12/9/19, effective 7/1/20. Statutory Authority: RCW 19.27A.025, 19.27A.045, 19.27A.160, and 19.27.074. WSR 17-10-063, § 51-11R-10400, filed 5/2/17, effective 6/2/17; WSR 16-02-127, § 51-11R-10400, filed 1/6/16, effective 7/1/16. Statutory Authority: RCW 19.27A.020, 19.27A.045 and chapters 19.27 and 34.05 RCW. WSR 13-04-055, § 51-11R-10400, filed 2/1/13, effective 7/1/13.]

AMENDATORY SECTION (Amending WSR 20-01-047, filed 12/9/19, effective 7/1/20)

WAC 51-11R-40621 Table R406.3—Energy credits.

TABLE 406.3
ENERGY CREDITS

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
1. EFFICIENT BUILDING ENVELOPE OPTIONS			
Only one option from Items 1.1 through 1.7 may be selected in this category. Compliance with the conductive UA targets is demonstrated using Section R402.1.4, Total UA alternative, where [1-(Proposed UA/Target UA)] > the required %UA reduction			

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
1.1	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.24.	0.5	0.5
1.2	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.20.	1.0	1.0
1.3	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.28 Floor R-38 Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total conductive UA by 5%.	0.5	N/A
1.4	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.25 Wall R-21 plus R-4 ci Floor R-38 Basement wall R-21 int plus R-5 ci Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total conductive UA by 15%.	1.0	1.0
1.5	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.22 Ceiling and single-rafter or joist-vaulted R-49 advanced Wood frame wall R-21 int plus R-12 ci Floor R-38 Basement wall R-21 int plus R-12 ci Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total conductive UA by 30%.	2.0	1.5
1.6	Prescriptive compliance is based on Table R402.1.1 with the following modifications: Vertical fenestration U = 0.18 Ceiling and single-rafter or joist-vaulted R-60 advanced Wood frame wall R-21 int plus R-16 ci Floor R-48 Basement wall R-21 int plus R-16 ci Slab on grade R-20 perimeter and under entire slab Below grade slab R-20 perimeter and under entire slab or Compliance based on Section R402.1.4: Reduce the Total conductive UA by 40%.	3.0	2.0
1.7	Advanced framing and raised heel trusses or rafters Vertical Glazing U-0.28 R-49 Advanced (U-0.020) as listed in Section A102.2.1, <i>Ceilings below a vented attic</i> and R-49 vaulted ceilings with full height of uncompressed insulation extending over the wall top plate at the eaves.	0.5	0.5
2. AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION OPTIONS Only one option from Items 2.1 through 2.4 may be selected in this category.			

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
2.1	<p>Compliance based on R402.4.1.2: Reduce the tested air leakage to 3.0 air changes per hour maximum at 50 Pascals</p> <p>or</p> <p>For R-2 Occupancies, optional compliance based on Section R402.4.1.2: Reduce the tested air leakage to 0.3 cfm/ft² maximum at 50 Pascals</p> <p>and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> or Section 403.8 of the <i>International Mechanical Code</i> shall be met with a high efficiency fan(s) (maximum 0.35 watts/cfm), not interlocked with the furnace fan (if present). Ventilation systems using a furnace including an ECM motor are allowed, provided that they are controlled to operate at low speed in ventilation only mode.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected, the maximum tested building air leakage, and shall show the qualifying ventilation system and its control sequence of operation.</p>	0.5	1.0
2.2	<p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 2.0 air changes per hour maximum at 50 Pascals</p> <p>or</p> <p>For R-2 Occupancies, optional compliance based on Section R402.4.1.2: Reduce the tested air leakage to 0.25 cfm/ft² maximum at 50 Pascals</p> <p>and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> or Section 403.8 of the <i>International Mechanical Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.65.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.0	1.5
2.3	<p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 1.5 air changes per hour maximum at 50 Pascals</p> <p>or</p> <p>For R-2 Occupancies, optional compliance based on Section R402.4.1.2: Reduce the tested air leakage to 0.25 cfm/ft² maximum at 50 Pascals</p> <p>and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> or Section 403.8 of the <i>International Mechanical Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.75.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.5	2.0
2.4	<p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 0.6 air changes per hour maximum at 50 Pascals</p> <p>or</p> <p>For R-2 Occupancies, optional compliance based on Section R402.4.1.2: Reduce the tested air leakage to 0.15 cfm/ft² maximum at 50 Pascals</p> <p>and</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> or Section 403.8 of the <i>International Mechanical Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.80. Duct installation shall comply with Section R403.3.7.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	2.0	2.5

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
3. HIGH EFFICIENCY HVAC EQUIPMENT OPTIONS			
Only one option from Items 3.1 through 3.6 may be selected in this category. <u>Credits shall be awarded for a heat pump still pending the installation of the outdoor unit.</u>			
3.1 ^a	<p>Energy Star rated (U.S. North) Gas or propane furnace with minimum AFUE of 95%</p> <p>or</p> <p>Energy Star rated (U.S. North) Gas or propane boiler with minimum AFUE of 90%.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0	1.0
3.2 ^a	<p>Air-source centrally ducted heat pump with minimum HSPF of 9.5.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0	N/A
3.3 ^a	<p>Closed-loop ground source heat pump; with a minimum COP of 3.3</p> <p>or</p> <p>Open loop water source heat pump with a maximum pumping hydraulic head of 150 feet and minimum COP of 3.6.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.5	1.0
3.4	<p>Ductless mini-split heat pump system, zonal control: In homes where the primary space heating system is zonal electric heating, a ductless mini-split heat pump system with a minimum HSPF of 10.0 shall be installed and provide heating to the largest zone of the housing unit.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.5	2.0
3.5 ^a	<p>Air-source, centrally ducted heat pump with minimum HSPF of 11.0.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.5	N/A
3.6 ^a	<p>Ductless split system heat pumps with no electric resistance heating in the primary living areas. A ductless heat pump system with a minimum HSPF of 10 shall be sized and installed to provide heat to entire dwelling unit at the design outdoor air temperature.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected, the heated floor area calculation, the heating equipment type(s), the minimum equipment efficiency, and total installed heat capacity (by equipment type).</p>	2.0	3.0
4. HIGH EFFICIENCY HVAC DISTRIBUTION SYSTEM OPTIONS			
4.1	<p>All supply and return ducts located in an unconditioned attic shall be deeply buried in ceiling insulation in accordance with Section R403.3.7.</p> <p>For mechanical equipment located outside the conditioned space, a maximum of 10 linear feet of return duct and 5 linear feet of supply duct connections to the equipment may be outside the deeply buried insulation. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices.</p> <p>Duct leakage shall be limited to 3 cfm per 100 square feet of conditioned floor area.</p> <p>Air handler(s) shall be located within the conditioned space.</p>	0.5	0.5

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
4.2	<p>HVAC equipment and associated duct system(s) installation shall comply with the requirements of Section R403.3.7.</p> <p>Locating system components in conditioned crawl spaces is not permitted under this option.</p> <p>Electric resistance heat and ductless heat pumps are not permitted under this option.</p> <p>Direct combustion heating equipment with AFUE less than 80% is not permitted under this option.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and shall show the location of the heating and cooling equipment and all the ductwork.</p>	1.0	N/A
<p>5. EFFICIENT WATER HEATING OPTIONS Only one option from Items 5.2 through 5.6 may be selected in this category. Item 5.1 may be combined with any option.</p>			
5.1	<p>A drain water heat recovery unit(s) shall be installed, which captures waste water heat from all and only the showers, and has a minimum efficiency of 40% if installed for equal flow or a minimum efficiency of 54% if installed for unequal flow. Such units shall be rated in accordance with CSA B55.1 or IAPMO IGC 346-2017 and be so labeled.</p> <p>To qualify to claim this credit, the building permit drawings shall include a plumbing diagram that specifies the drain water heat recovery units and the plumbing layout needed to install it. Labels or other documentation shall be provided that demonstrates that the unit complies with the standard.</p>	0.5	0.5
5.2	<p>Water heating system shall include one of the following: Energy Star rated gas or propane water heater with a minimum UEF of 0.80.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency.</p>	0.5	0.5
5.3	<p>Water heating system shall include one of the following: Energy Star rated gas or propane water heater with a minimum UEF of 0.91 or Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems or Water heater heated by ground source heat pump meeting the requirements of Option 3.3.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency and, for solar water heating systems, the calculation of the minimum energy savings.</p>	1.0	1.0
5.4	<p>Water heating system shall include one of the following: Electric heat pump water heater meeting the standards for Tier I of NEEA's advanced water heating specification or For R-2 Occupancy, electric heat pump water heater(s), meeting the standards for Tier I of NEEA's advanced water heating specification, shall supply domestic hot water to all units. If one water heater is serving more than one dwelling unit, all hot water supply and recirculation piping shall be insulated with R-8 minimum pipe insulation.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency.</p>	1.5	2.0

OPTION	DESCRIPTION	CREDIT(S)	
		All Other	Group R-2
5.5	<p>Water heating system shall include one of the following: Electric heat pump water heater meeting the standards for Tier III of NEEA's advanced water heating specification or For R-2 Occupancy, electric heat pump water heater(s), meeting the standards for Tier III of NEEA's advanced water heating specification, shall supply domestic hot water to all units. If one water heater is serving more than one dwelling unit, all hot water supply and recirculation piping shall be insulated with R-8 minimum pipe insulation.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency.</p>	2.0	2.5
5.6	<p>Water heating system shall include one of the following: Electric heat pump water heater with a minimum UEF of 2.9 and utilizing a split system configuration with the air-to-refrigerant heat exchanger located outdoors. Equipment shall meet Section 4, requirements for all units, of the NEEA standard <i>Advanced Water Heating Specification</i> with the UEF noted above or For R-2 Occupancy, electric heat pump water heater(s), meeting the standards for Tier III of NEEA's advanced water heating specification and utilizing a split system configuration with the air-to-refrigerant heat exchanger located outdoors, shall supply domestic hot water to all units. If one water heater is serving more than one dwelling unit, all hot water supply and recirculation piping shall be insulated with R-8 minimum pipe insulation.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency.</p>	2.5	3.0
6. RENEWABLE ELECTRIC ENERGY OPTION			
6.1	<p>For each 1200 kWh of electrical generation per housing unit provided annually by on-site wind or solar equipment a 1.0 credit shall be allowed, up to 3 credits. Generation shall be calculated as follows: For solar electric systems, the design shall be demonstrated to meet this requirement using the National Renewable Energy Laboratory calculator PVWATTS or approved alternate by the code official.</p> <p>Documentation noting solar access shall be included on the plans.</p> <p>For wind generation projects designs shall document annual power generation based on the following factors: The wind turbine power curve; average annual wind speed at the site; frequency distribution of the wind speed at the site and height of the tower.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall show the photovoltaic or wind turbine equipment type, provide documentation of solar and wind access, and include a calculation of the minimum annual energy power production.</p>	1.0	1.0
7. APPLIANCE PACKAGE OPTION			
7.1	<p>All of the following appliances shall be new and installed in the dwelling unit and shall meet the following standards: Dishwasher – Energy Star rated Refrigerator (if provided) – Energy Star rated Washing machine – Energy Star rated Dryer – Energy Star rated, ventless dryer with a minimum CEF rating of 5.2.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall show the appliance type and provide documentation of Energy Star compliance. At the time of inspection, all appliances shall be installed and connected to utilities. Dryer ducts and exterior dryer vent caps are not permitted to be installed in the dwelling unit.</p>	0.5	1.5

^a An alternative heating source sized at a maximum of 0.5 Watts/ft² (equivalent) of heated floor area or 500 Watts, whichever is bigger, may be installed in the dwelling unit.

[Statutory Authority: RCW 19.27A.020, 19.27A.045, 19.27A.160 and chapter 19.27 RCW. WSR 20-01-047, § 51-11R-40621, filed 12/9/19, effective 7/1/20. Statutory Authority: RCW 19.27A.025, 19.27A.045, 19.27A.160, and 19.27.074. WSR 17-10-063, § 51-11R-40621, filed 5/2/17, effective 6/2/17. Statutory Authority: RCW 19.27A.020, 19.27A.045, 19.27A.160, and 19.27.074. WSR 16-02-127, § 51-11R-40621, filed 1/6/16, effective 7/1/16. Statutory Authority: RCW 19.27A.025, 19.27A.045, 19.27.020, and 19.27.074. WSR 14-24-123, § 51-11R-40621, filed 12/3/14, effective 1/3/15. Statutory Authority: RCW 19.27A.025, 19.27A.045, and 19.27.074. WSR 13-20-121, § 51-11R-40621, filed 10/1/13, effective 11/1/13. Statutory Authority: RCW 19.27A.020, 19.27A.045 and chapters 19.27 and 34.05 RCW. WSR 13-04-055, § 51-11R-40621, filed 2/1/13, effective 7/1/13.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 21-22-018
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-236—Filed October 22, 2021, 12:19 p.m., effective October 22, 2021, 12:19 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to extend recreational salmon seasons for Skagit and Cascade rivers.

Citation of Rules Affected by this Order: Repealing WAC 220-312-04000U; and amending WAC 220-312-040.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Skagit River coho return is greater than forecast and allows for the recreational coho season to extend through December 31. The extended opportunity only applies to coho salmon. All other salmon species must be released. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 22, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000V Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through December 31, 2021 recreational fishing seasons for the Skagit River and Cascade River, shall be modified as follows, during dates listed below. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) Skagit River (Skagit County):

(a) From mouth to Cascade River Rd. (Marblemount Bridge): Recreational salmon fishing is open immediately through December 31, except in areas and times listed in subsection (1) (a) of this rule.

(i) Daily limit of 2 coho. Release all salmon other than coho.

(ii) Night Closure in effect.

(2) Cascade River (Skagit County): From the mouth to Rockport-Cascade Road Bridge:

Recreational salmon fishing is open immediately, through November 30, 2021, seven days per week:

- (a) Daily limit 4. Release all salmon other than coho.
- (b) Night Closure in effect.
- (c) Anti-snagging Rule in effect.

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-312-04000U Freshwater exceptions to statewide rules—Puget Sound. (21-234)

WSR 21-22-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-238—Filed October 22, 2021, 2:18 p.m., effective October 22, 2021, 2:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Closes Marine Fish/Shellfish Catch Reporting Area 25A to commercial harvest of nonspot shrimp effective October 24, 2021, at 11:59 p.m.

Citation of Rules Affected by this Order: Repealing WAC 220-340-52000Q; and amending WAC 220-340-520.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Closes commercial nonspot shrimp harvest in Marine Fish Shellfish Catch Reporting Area 25A effective October 24, 2021, at 11:59 p.m. and ends the commercial nonspot fishery for the 2021 season per preseason comanager agreement. Sections of this regulation define open areas to allow adequate flexibility for the state commercial shrimp fisheries to respond to dynamic changes in market conditions and to allow for full utilization of both the commercial spot and nonspot shares while also achieving the 50/50 harvest defined by the federal court order. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 22, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-52000R Puget Sound shrimp pot and trawl fishery—
Season. Notwithstanding the provisions of WAC 220-340-520, effective immediately, until further notice, or until they expire pursuant to RCW 34.05.350, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp Pot Harvests:

(a) Marine Fish Shellfish Catch Reporting Area 25A is open to the commercial harvest of non-spot shrimp by pots through October 24, 2021 at 11:59 p.m.

(b) There is no minimum size limit for spot shrimp or non-spot shrimp.

(c) Shrimp pot gear used for commercial harvest must meet the following requirements:

(i) A shrimp pot may not exceed a maximum 153 inch bottom perimeter and a maximum of 24 inch height.

(ii) The entire top, bottom, and sides of the shrimp pot must be constructed of mesh material. Use of liners is prohibited.

(iii) Entrance tunnels to shrimp pots may be constructed of any size mesh material. All entrance tunnels must open into the pot from the side. The sum of the maximum widths of all entrance tunnel openings must not exceed half of the perimeter of the bottom of the pot.

(iv) Spot shrimp may only be harvested using pots with a minimum mesh size of 1 inch. Mesh size of 1 inch is defined as a mesh opening that a 7/8-inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be a minimum of 1-3/4 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(v) Non-spot shrimp may only be harvested using pots with a minimum mesh size 1/2 inch. Mesh of 1/2 inch is defined as a mesh that a 3/8 inch square peg will pass through, excluding the entrance tunnels, except for flexible (web) mesh pots, where the mesh must be at a minimum 1 1/8 inch stretch measure. Stretch measure is defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh, when the mesh is stretched vertically.

(d) Buoys must have the number of pots deployed per groundline recorded on each end-buoy of a groundline.

(e) It is lawful to concurrently deploy spot shrimp pots and non-spot pots with the following restrictions:

(i) Spot pots and non-spot pots may not be deployed concurrently within the same Marine Fish/Shellfish Catch Reporting Area, with the following exceptions:

(A) Spot and non-spot pots may be concurrently deployed in Marine Fish/Shellfish Catch Reporting Area 23A but not within the same sub-area (23A-E, 23A-W, 23A-C, or 23A-S).

(B) Non-spot pots may be deployed within Sequim Bay, defined as that portion of Marine Fish/Shellfish Catch Reporting Area 25A south of a line true west from Travis Spit to the Miller Peninsula, concurrently with spot shrimp pots in the remaining portion of 25A outside of Sequim Bay.

(ii) All shrimp harvested must be landed and recorded on a shellfish receiving ticket before subsequent harvest may occur.

(f) Each fisher or alternate operator is required to report their intended catch area of harvest, target species (spot or non-spot), and the amount of pounds that are being targeted prior to the deployment of any shrimp gear to either shrimp.report@dfw.wa.gov, by text message to 360-302-6372, or by other electronic means designated by the Department.

(g) It is unlawful to harvest non-spot and spot shrimp in the same day.

It is unlawful to harvest shrimp in more than one Shrimp Management Area (1A, 1B, 1C, 2E, 2W, 3, 4, 5, or 6) per day.

(2) All shrimp taken under this section must be sold to licensed Washington State wholesale fish dealers.

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Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following section of Washington Administrative Code is repealed:

WAC 220-340-52000Q Puget Sound shrimp pot and trawl fishery—Season. (21-232)

WSR 21-22-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-237—Filed October 22, 2021, 2:20 p.m., effective October 25, 2021]

Effective Date of Rule: October 25, 2021.

Purpose: Closes commercial harvest of green sea urchin in parts of Sea Urchin District 2.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000E; and amending WAC 220-340-750.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule closes harvest of green sea urchins in parts of Sea Urchin District 2 (Marine Fish-Shellfish Management and Catch Reporting Areas 23B, 25A, 25B) to prevent overharvest. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 22, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000F Commercial sea urchin fishery. Effective October 25, 2021, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

(2) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 2 Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 21B, 22A, 22B, 23A, District 3 east of a line projected true north from the shoreline at 123°52.7'W longitude to the international border, District 4 west of a line projected true north from the shoreline at 123°48.3'W longitude to the international border, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west and north of a line starting at Point Fosdick following longitude 122°35'W southward to latitude 47°14'N thence true west to Fox Island, and east and north of a line starting at Green Point following longitude 122°41'W southward to latitude 47°16.5'N thence true east to Fox Island.

(3) The maximum cumulative landings for green sea urchins for each weekly fishery opening period is 1,500 pounds per valid designated sea urchin harvest license. Each fishery week begins Monday and ends Sunday.

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REPEALER

The following section of the Washington Administrative Code is repealed effective October 25, 2021:

WAC 220-340-75000E Commercial sea urchin fishery. (21-212)

WSR 21-22-024
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-239—Filed October 22, 2021, 4:35 p.m., effective October 25, 2021]

Effective Date of Rule: October 25, 2021.

Purpose: The purpose of this emergency rule is to modify and add harvest opportunity for commercial purse seine and gillnet fisheries in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to add and/or modify commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B because recent in-season information indicates a larger chum return than originally forecast[ed]. Sufficient returns are available for the increased harvest opportunity. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 22, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000E Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM, October 25, until 6:00 PM, October 25, 2021 the following provisions of WAC 220-354-160 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12 and 12B shall be as follows. All other provisions of WAC 220-351-210 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11, 12, 12B	Open	7 AM - 6 PM	10/25/2021

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NEW SECTION

WAC 220-354-16000Q Puget Sound salmon—Gillnet—Open periods.

Effective October 26 through October 28, 2021, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12 and 12B shall be as described below. All other provisions of WAC 220-354-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
10, 11	Open	5 AM - 9 AM Daily	10/26/2021; 10/28/2021
12, 12B	Open	7 AM - 8 PM Daily	10/26/2021; 10/28/2021

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WSR 21-22-029

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed October 25, 2021, 3:32 p.m., effective October 25, 2021, 3:32 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-945-010 Prescription labeling, records, and advertising—Minimum requirements. The pharmacy quality assurance commission (commission) is adopting emergency rules to reduce burdens on practitioners prescribing Schedule II substances during the coronavirus disease (COVID-19) outbreak. This adopted emergency rule will extend WSR 21-14-059 filed on July 2, 2021. This emergency rule was originally filed on April 21, 2020, under WSR 20-09-133. It was refiled on July 10, 2020, after the commission's new chapter went into effect under WSR 20-15-058. This emergency rule will continue the existing emergency rule amending WAC 246-945-010 to increase the duration of time a practitioner has to deliver a signed prescription of a Schedule II substance to the pharmacy from seven days to 15 days when a prescription is dispensed in an emergency. It also defines what a "signed prescription" means and allows for a practitioner to accomplish this requirement through paper, electronic transmission, facsimile, photograph, or scanned copy. These alternative methodologies support patients, practitioners, and pharmacists' efforts to practice social distancing and to help mitigate communal spread.

Citation of Rules Affected by this Order: Amending WAC 246-945-010.

Statutory Authority for Adoption: RCW 18.64.005; chapter 69.50 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The immediate amendment of this existing rule is necessary for the preservation of public health, safety, and general welfare. Stakeholders and leaders from the pain community have highlighted this is an immediate need for Washingtonians. This emergency rule has been in effect since April 21, 2020. This emergency rule allows more time and more avenues for complying with the requirements during the ongoing COVID-19 pandemic, reducing burdens on practitioners and pharmacists, and sustaining patient access during this difficult time. The emergency rules follow guidance from the United States Drug Enforcement Agency [Administration] and will help address this problem and reduce barriers for providers and patient populations in need of Schedule II prescriptions throughout this public health emergency. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to public interest.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 2, 2021.

Teri Ferreira, RPh, Chair
Pharmacy Quality Assurance Commission

OTS-2391.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-010 Prescription and chart order—Minimum requirements. (1) For the purposes of this section, prescription does not include chart orders as defined in RCW 18.64.011(3).

(2) For the purposes of WAC 246-945-010 through 246-945-013, prescription includes written and electronic prescriptions.

(3) A prescription for a noncontrolled legend drug must include, but is not limited to, the following:

(a) Prescriber's name;

(b) Name of patient, authorized entity, or animal name and species;

(c) Date of issuance;

(d) Drug name, strength, and quantity;

(e) Directions for use;

(f) Number of refills (if any);

(g) Instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted, unless substitution is permitted under a prior-consent authorization;

(h) Prescriber's manual or electronic signature, or prescriber's authorized agent signature if allowed by law; and

(i) If the prescription is written, it must be written on tamper-resistant prescription pad or paper approved by the commission pursuant to RCW 18.64.500;

(4) A prescription for a controlled substance must include all the information listed in subsection (1) of this section and the following:

(a) Patient's address;

(b) Dosage form;

(c) Prescriber's address;

(d) Prescriber's DEA registration number; and

(e) Any other requirements listed in 21 C.F.R., Chapter II.

(5) A chart order must meet the requirements of RCW 18.64.550 and any other applicable requirements listed in 21 C.F.R., Chapter II.

(6) A controlled substance listed in Schedule II can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011 unless there is an "emergency."

(a) For the purposes of this subsection, an "emergency" exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the practitioner to provide a written or electronic prescription for the drug at that time.

(b) If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within ~~((seven))~~ fifteen days after authorizing an emergency oral prescription or if delivered by mail it must be postmarked within the ~~((seven))~~ fifteen day period, and further the pharmacist must note on the prescription that it was filled on an emergency basis.

(c) For the purposes of this subsection, a "signed prescription" shall be either:

(i) A paper prescription;

(ii) An electronic prescription;

(iii) A copy of the paper prescription sent via facsimile to the pharmacy; or

(iv) A photograph or scanned copy of the paper prescription sent to the pharmacy.

(7) A controlled substance listed in Schedule III, IV, or V, can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a controlled substance listed in Schedule III, IV, or V must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

(8) A noncontrolled legend drug can only be dispensed pursuant to a valid prescription in accordance with WAC 246-945-011, or an oral prescription. An oral prescription for a noncontrolled legend drug must be promptly reduced to a written or electronic prescription that complies with WAC 246-945-011.

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-010, filed 6/1/20, effective 7/1/20.]

WSR 21-22-030
EMERGENCY RULES
SECRETARY OF STATE

[Filed October 25, 2021, 4:43 p.m., effective October 25, 2021, 4:43 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this rule is to preserve transparency in Washington's election process while preventing the disclosure of information that may increase risk to the integrity of election operations.

Citation of Rules Affected by this Order: New WAC 434-25-370.

Statutory Authority for Adoption: RCW 29A.04.230, 29A.04.611, 29A.08.710, 42.56.420.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The transparency and integrity of elections are at the heart of self-governance and the general welfare. Immediate adoption of this rule is necessary to preserve the transparency and integrity of elections. Under Washington's vote-by-mail system, signature verification is a key means of verifying the authenticity of a ballot. Widespread disclosure of images of voter signatures may undermine this verification process. There are pending Public Records Act requests that would result in the disclosure of large number of voter signatures. If voter signatures are disclosed, it will not be possible to undo the potential harm. This rule also ensures that counties may maintain transparency by permitting in-person inspection without redaction.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 25, 2021.

Sheri D. Nelson
Assistant Secretary of State

OTS-3424.2

NEW SECTION

WAC 434-250-380 Disclosure of voter signatures. (1) Voter signatures must be redacted on any ballot envelope or signature-correction form that is produced electronically or made available for public inspection, subject to the exceptions in subsections (2) and (3). The requirement applies to original documents, copies, and electronic images.

(2) Voter signatures do not have to be redacted when making ballot envelopes or signature-correction forms available for in-person public inspection, so long as photocopying, photographs, and other types of image reproduction of voter signatures are prohibited.

(3) Election officials may share unredacted ballot envelopes and signature-correction forms with other governmental entities for official purposes, provided that the ballot envelopes and signature-correction forms are shared in a secure manner.

(4) Voter signatures on ballot envelopes or signature-correction forms that are disclosed in litigation should be subject to a protective order that prohibits redisclosure of the voter signatures.

(5) Voter signatures on ballot envelopes or signature-correction forms constitute information about election security for purposes of RCW 42.56.420.

(6) Public disclosure of voter signatures on ballot envelopes or signature-correction forms may increase risk to the integrity of election operations.

(7) Subsection (2) of this section is severable. If a court concludes that agencies may not prohibit copying of records that are made available for in-person inspection, then voter signatures on ballot envelopes and signature-correction forms must be redacted for in-person inspection of records.

(8) For purposes of this regulation, "signature-correction form" means any form submitted by a voter for the purpose of curing a missing or mismatched signature on a ballot declaration or otherwise updating the voter signature.

(9) For purposes of this section, "voter signature" means any original handwritten signature or image of the voter's signature.

(10) The requirements of this section apply to any public records requests made prior to the effective date of this section for which disclosure of records has not already been completed.

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WSR 21-22-046
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-240—Filed October 27, 2021, 5:45 p.m., effective October 27, 2021, 5:45 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational harvest rules for razor clams.

Citation of Rules Affected by this Order: Repealing WAC 220-330-01000Q and 220-330-16000B; and amending WAC 220-330-010 and 220-330-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Based on assessments, it has been determined that there are sufficient numbers of razor clams available for recreational harvest in Razor Clam Areas 1, 3, 4, and 5, and to meet needs for treaty Indian fisheries on comanaged beaches. An exceptionally large population of harvestable razor clams in Razor Clam Areas 1, 3, 4, and 5 which allows us to offer the temporary increase in the daily bag limit. Washington department of health has certified clams from these razor clam areas to be safe for human consumption. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 27, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-16000B Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) In Razor Clam Areas 1 and 3, digging is only permissible from 12:01 p.m. to 11:59 p.m. each day only November 3, through November 10, 2021.

(2) In Razor Clam Area 4, digging is only permissible from 12:01 p.m. to 11:59 p.m. each day only November 4, November 6, November 8 and November 10, 2021.

(3) In Razor Clam Area 5, digging is only permissible from 12:01 p.m. to 11:59 p.m. each day only November 3, November 5, November 7 and November 9, 2021.

(4) It is unlawful to dig for razor clams at any time in the Long Beach and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

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NEW SECTION

WAC 220-330-01000Q Shellfish—Daily limits, size restrictions, and unlawful acts. Notwithstanding the provisions of WAC 220-330-010 regarding Razor clam daily limits, effective 12:01 a.m. November 3, through 11:59 p.m. November 10, 2021, the daily limit is 20 razor clams for personal use in any one day from Razor Clam Area 1, Razor Clam Area 3, Razor Clam Area 4 and Razor Clam Area 5. All other provisions of WAC 220-330-010 not addressed herein remain in effect unless otherwise amended by emergency rule.

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REPEALER

The following sections of the Washington Administrative Code are repealed effective 12:01 a.m. November 11, 2021:

WAC 220-330-16000B Razor clams—Areas and seasons.

WAC 220-330-01000Q Shellfish—Daily limits, size restrictions, and unlawful acts.

WSR 21-22-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-239—Filed October 28, 2021, 11:19 a.m., effective October 28, 2021, 11:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends rules for Puget Sound recreational sea cucumbers.

Citation of Rules Affected by this Order: Amending WAC

220-330-090.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to align the personal use sea cucumber regulation with provisions of the 2021-22 Puget Sound Sea Cucumber Management Plan. This regulation will extend the closure of the personal use sea cucumber fishery in Marine Areas 8-1, 8-2, 10, and that portion of Marine Area 9 south of line projected from Foulweather Bluff continuing to Double Bluff on Whidbey Island year-round. This regulation is needed to manage the fishery within court-ordered sharing requirements and ensure conservation. Harvest of sea cucumbers remains open until further notice, in Marine Areas 1, 2, 3, 4, 5, 6, 7, 9 north of line projected from Foulweather Bluff continuing to Double Bluff on Whidbey Island, 11, and 13. There is insufficient time to adopt permanent rules, but updating of related permanent rules has been initiated.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-330-09000C Sea cucumbers Notwithstanding the provisions of WAC 220-330-090, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for personal use in Marine Areas 8-1, 8-2, 10, and that portion of Marine Area 9 south of

line projected from Foulweather Bluff continuing to Double Bluff on Whidbey Island. All other provisions of WAC 220-330-090 not addressed herein, or unless otherwise amended by emergency rule, remain in effect.

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WSR 21-22-056
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-241—Filed October 28, 2021, 11:36 a.m., effective November 1, 2021]

Effective Date of Rule: November 1, 2021.

Purpose: The purpose of this emergency rule is to change the daily salmon limit in Marine Area 11.

Citation of Rules Affected by this Order: Repealing WAC 220-313-06000N; and amending WAC 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Winter fishery opportunity in Marine Area 11 in 2021-22 is managed so as not to exceed a quota of 1,001 Chinook encounters as agreed in the 2021 list of agreed fisheries. The Washington department of fish and wildlife, in conjunction with recreational fishing advisors for Puget Sound, decided to reduce the daily limit to one Chinook salmon in order to maximize fishing opportunity, given the limited available harvest and encounters for the fishery scheduled to occur between November 1 and December 31, 2021. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2021.

Kelly Susewind
Director

[NEW SECTION]

WAC 220-313-06000N Puget Sound salmon—Saltwater seasons and daily limits. Effective November 1, through December 31, 2021, the following provisions of WAC 220-313-060 regarding Chinook salmon retention in Marine Area 11, shall be as described below. All other provisions of WAC 220-313-060 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Salmon daily limit is one (1). Chinook minimum size is 22". Release wild chinook, coho, and chum.

[]

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2022:

WAC 220-313-06000N Puget Sound salmon—Saltwater seasons and daily limits.

WSR 21-22-061

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed October 28, 2021, 3:13 p.m., effective October 28, 2021, 3:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The health care authority is revising this section to allow for payment of office visits for clients under the alien emergency medical (AEM) program when the visit is specifically for the assessment and treatment of the COVID-19 virus.

Citation of Rules Affected by this Order: Amending WAC 182-507-0115.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule making is in response to the Governor's Proclamation 20-05 declaring a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) and the secretary of the federal Department of Health and Human Services declaration of a public health emergency related to COVID-19. This emergency rule making is necessary to preserve the public health, safety, and general welfare by allowing payment for the office visit for an AEM client for the assessment and treatment of the COVID-19 virus.

This emergency filing replaces the emergency rules filed under WSR 21-14-070 on July 2, 2021. The agency is refiled the emergency to continue the emergency rule while proceeding through the permanent rule-making process. Since the last emergency filing, the agency held a public hearing on July 27, 2021. The agency is now considering public comments and possible changes to rule language prior to final adoption.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 28, 2021.

Wendy Barcus
Rules Coordinator

OTS-2140.1

AMENDATORY SECTION (Amending WSR 12-24-038, filed 11/29/12, effective 12/30/12)

WAC 182-507-0115 Alien emergency medical program (AEM). (1) A person nineteen years of age or older who is not pregnant and meets the eligibility criteria under WAC 182-507-0110 is eligible for the alien emergency medical program's scope of covered services described in this section if the person meets ~~((a) and (b) or (c))~~ the requirements of (a) of this subsection, as well as the requirements of either (b), (c), or (d) of this subsection:

(a) The medicaid agency determines that the primary condition requiring treatment ~~((meets the definition of))~~ is an emergency medical condition as defined in WAC 182-500-0030, and the condition is confirmed through review of clinical records; and

(b) The person's qualifying emergency medical condition is treated in one of the following hospital settings:

(i) Inpatient;

(ii) Outpatient surgery;

(iii) Emergency room services, which must include an evaluation and management (E&M) visit by a physician; or

(c) Involuntary Treatment Act (ITA) and voluntary inpatient admissions to a hospital psychiatric setting that are authorized by the agency's inpatient mental health designee (see subsection (5) of this section); or

(d) For the assessment and treatment of the COVID-19 virus, the agency covers one physician visit provided in any outpatient setting, including the office or clinic setting, or via telemedicine, online digital or telephonic services to assess/evaluate and test, if clinically indicated, as follows:

(i) If the test is positive, in addition to the services described in (b) of this subsection and subsection (2)(b) of this section, any medically necessary services to treat, including:

(A) Follow-up office visits;

(B) Medications, prior authorization requirements may apply;

(C) Respiratory services and supplies; and

(D) Medical supplies, prior authorization requirements may apply.

(ii) If a test is negative, any treatment described in (d)(i)(A) through (B) of this subsection, as a precautionary measure for an anticipated positive test result.

(e) The coverage described in (d) of this subsection is in effect only during the time period, as determined by the agency in its sole discretion, that a public health emergency related to COVID-19 exists.

(2) If a person meets the criteria in subsection (1) of this section, the agency will cover and pay for all related medically necessary health care services and professional services provided:

(a) By physicians in their office or in a clinic setting immediately prior to the transfer to the hospital, resulting in a direct admission to the hospital; and

(b) During the specific emergency room visit, outpatient surgery or inpatient admission. These services include, but are not limited to:

(i) Medications;

(ii) Laboratory, X-ray, and other diagnostics and the professional interpretations;

(iii) Medical equipment and supplies;

(iv) Anesthesia, surgical, and recovery services;

(v) Physician consultation, treatment, surgery, or evaluation services;

(vi) Therapy services;

(vii) Emergency medical transportation; and

(viii) Nonemergency ambulance transportation to transfer the person from a hospital to a long term acute care (LTAC) or an inpatient physical medicine and rehabilitation (PM&R) unit, if that admission is prior authorized by the agency or its designee as described in subsection (3) of this section.

(3) The agency will cover admissions to an LTAC facility or an inpatient PM&R unit if:

(a) The original admission to the hospital meets the criteria as described in subsection (1) of this section;

(b) The person is transferred directly to this facility from the hospital; and

(c) The admission is prior authorized according to LTAC and PM&R program rules (see WAC 182-550-2590 for LTAC and WAC 182-550-2561 for PM&R).

(4) The agency does not cover any services, regardless of setting, once the person is discharged from the hospital after being treated for a qualifying emergency medical condition authorized by the agency or its designee under this program. Exceptions:

(a) For admissions to treat COVID-19 or complications thereof, the agency will cover up to two postdischarge physician follow-up visits, regardless of how the visits are conducted or where they are conducted.

(b) Pharmacy services, drugs, devices, and drug-related supplies listed in WAC 182-530-2000, prescribed on the same day and associated with the qualifying visit or service (as described in subsection (1) of this section) will be covered for a one-time fill and retrospectively reimbursed according to pharmacy program rules.

(5) Medical necessity of inpatient psychiatric care in the hospital setting must be determined, and any admission must be authorized by the agency's inpatient mental health designee according to the requirements in WAC 182-550-2600.

(6) There is no precertification or prior authorization for eligibility under this program. Eligibility for the AEM program does not have to be established before an individual begins receiving emergency treatment.

(7) Under this program, certification is only valid for the period of time the person is receiving services under the criteria described in subsection (1) of this section. The exception for pharmacy services is also applicable as described in subsection (4) of this section.

(a) For inpatient care, the certification is only for the period of time the person is in the hospital, LTAC, or PM&R facility - The admission date through the discharge date. Upon discharge the person is no longer eligible for coverage.

(b) For an outpatient surgery or emergency room service the certification is only for the date of service. If the person is in the hospital overnight, the certification will be the admission date through the discharge date. Upon release from the hospital, the person is no longer eligible for coverage.

(8) Under this program, any visit or service not meeting the criteria described in subsection (1) of this section is considered not within the scope of service categories as described in WAC 182-501-0060. This includes, but is not limited to:

(a) Hospital services, care, surgeries, or inpatient admissions to treat any condition which is not considered by the agency to be a qualifying emergency medical condition, including but not limited to:

(i) Laboratory X-ray, or other diagnostic procedures;
(ii) Physical, occupational, speech therapy, or audiology services;

(iii) Hospital clinic services; or

(iv) Emergency room visits, surgery, or hospital admissions.

(b) Any services provided during a hospital admission or visit (meeting the criteria described in subsection (1) of this section), which are not related to the treatment of the qualifying emergency medical condition;

(c) Organ transplants, including preevaluations, post operative care, and anti-rejection medication;

(d) Services provided outside the hospital settings described in subsection (1) of this section including, but not limited to:

(i) Office or clinic-based services rendered by a physician, an ARNP, or any other licensed practitioner;

(ii) Prenatal care, except labor and delivery;

(iii) Laboratory, radiology, and any other diagnostic testing;

(iv) School-based services;

(v) Personal care services;

(vi) Physical, respiratory, occupational, and speech therapy services;

(vii) Waiver services;

(viii) Nursing facility services;

(ix) Home health services;

(x) Hospice services;

(xi) Vision services;

(xii) Hearing services;

(xiii) Dental services;

(xiv) Durable and nondurable medical supplies;

(xv) Nonemergency medical transportation;

(xvi) Interpreter services; and

(xvii) Pharmacy services, except as described in subsection (4) of this section.

(9) The services listed in subsection (8) of this section are not within the scope of service categories for this program and therefore the exception to rule process is not available.

(10) Providers must not bill the agency for visits or services that do not meet the qualifying criteria described in this section. The agency will identify and recover payment for claims paid in error.

[Statutory Authority: RCW 41.05.021. WSR 12-24-038, § 182-507-0115, filed 11/29/12, effective 12/30/12. WSR 12-13-056, recodified as § 182-507-0115, filed 6/15/12, effective 7/1/12. Statutory Authority: RCW 74.04.050, 74.08.090, and 2009 c 564 §§ 1109, 201, 209. WSR 10-19-085, § 388-438-0115, filed 9/17/10, effective 10/18/10.]

WSR 21-22-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-242—Filed October 28, 2021, 5:13 p.m., effective November 1, 2021]

Effective Date of Rule: November 1, 2021.

Purpose: The purpose of this rule is to close the commercial salmon fishery in Willapa Bay Salmon Management and Catch Reporting Areas 2N, 2T, and 2U on November 1, 2021.

Citation of Rules Affected by this Order: Amending WAC 220-354-250.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close the commercial fishery in Willapa Bay Salmon Management and Catch Reporting Area 2N, 2T, and 2U on November 1, 2021. The catch of Willapa Bay chum has been higher than preseason predictions. The total catch predicted preseason for Willapa Bay chum was 2,721. The 2021 catch for Willapa Bay chum through statistical week 43 is 11,469. Based on the reported catch relative to the preseason prediction, a modification of the commercial fishery is necessary to help ensure the natural spawning escapement objective for chum is met. All other rules remain in effect.

There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 28, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-25000C Willapa Bay salmon fall fishery. Notwithstanding the provisions of WAC 220-354-250, the following rules apply. All other provisions of WAC 220-354-250, not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Date	Closed periods
2N, 2T, 2U	November 1, 2021	Closed

[]

WSR 21-22-065

EMERGENCY RULES

DEPARTMENT OF HEALTH

(Pharmacy Quality Assurance Commission)

[Filed October 29, 2021, 8:20 a.m., effective October 29, 2021, 8:20 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-945-056 Schedule V, the pharmacy quality assurance commission (commission) is adopting emergency rules to remove Epidiolex from the list of Schedule V controlled substances in Washington state. This adopted emergency rule will extend WSR 21-14-061 filed on July 2, 2021. The emergency which was originally filed on May 20, 2020, under WSR 20-11-078. Epidiolex is an FDA-approved cannabidiol with less than 0.3 percent tetrahydrocannabinol (THC). Descheduling the drug from Schedule V will maintain the emergency rule. It also aligns Washington state rule with the federal decision to exclude all hemp products with less than 0.3 percent THC from the definition of marijuana and the United States Drug Enforcement Agency's [Administration's] (DEA) rule making to remove Epidiolex from Schedule V, completed on August 21, 2020.

Citation of Rules Affected by this Order: Amending WAC 246-945-056.

Statutory Authority for Adoption: RCW 18.64.005, 69.50.201.

Other Authority: 21 U.S.C. § 811.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The immediate amendment of this existing rule is necessary for the preservation of public health, safety, and general welfare. Epidiolex is an FDA-approved cannabidiol with less than 0.3 percent THC used to help treat some seizure disorders. The 2018 Agricultural Improvement Act amended the Controlled Substances Act and declassified hemp products with less than 0.3 percent THC from Schedule I; however, Epidiolex was placed on Schedule V until April 6, 2020, when the DEA announced that it would be descheduled as a federally controlled substance. The DEA finalized rule making to remove Epidiolex from Schedule V on August 21, 2020. This emergency rule will maintain the emergency rule already in effect and update Washington rule to align with the federal decision. Emergency rules are necessary to reduce burdens on practitioners prescribing Epidiolex and allow patients easier access to the care they need. This rule may also help reduce pressure on the health system during the ongoing COVID-19 pandemic. Observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. The commission has initiated permanent rule making. The CR-101 to permanently deschedule Epidiolex (WSR 20-23-027) was filed on November 10, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 2, 2021.

Teri Ferreira, RPh, Chair
Pharmacy Quality
Assurance Commission

OTS-2392.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-056 Schedule V. The commission finds that the following substances have low potential for abuse relative to substances in Schedule IV under RCW 69.50.210 and WAC 246-945-055 and have currently accepted medical use in treatment in the United States and that the substances have limited physical dependence or psychological dependence liability relative to the substance in Schedule IV. In addition to the substances listed in RCW 69.50.212, the commission places each of the following drugs and substances by whatever official name, common or usual name, chemical name, or brand name in Schedule V.

Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide); also referred to as BRV; UCB-34714; Briviact;

(2) Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester].

~~((3) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols, also known as Epidiolex.))~~

[Statutory Authority: RCW 18.64.005, 18.64.080, 18.130.075, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.370, 18.64.460, 69.50.310, 18.64.011, 18.64.245, 18.64.470, 18.64.255, 18.64.205, 18.64.253, 18.64.410, 18.64.500, 18.64.590. WSR 20-12-072, § 246-945-056, filed 6/1/20, effective 7/1/20.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WSR 21-22-066

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed October 29, 2021, 8:41 a.m., effective October 29, 2021, 8:41 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WAC 246-930-010 Sex offender treatment provider, the department of health (department) is continuing the emergency rule amendment to WAC 246-930-010 to remove the words "face-to-face" from the definition of sex offender treatment, enabling sex offenders to continue accessing telehealth treatment and enabling increased social distancing during the coronavirus disease 2019 (COVID-19) declared emergency.

These rules continue the initial emergency rules that were filed on July 9, 2020, as WSR 20-15-057 and subsequently extended under WSR 20-23-011, 21-07-017, and 21-14-058. As part of the department's continuing response to the evolving COVID-19 public health threat, continuing this emergency rule will allow sex offenders to maintain access to care to prevent recidivism, while mitigating the COVID-19 public health threat and the surge caused by the COVID-19 delta variant.

Citation of Rules Affected by this Order: Amending WAC 246-930-010.

Statutory Authority for Adoption: RCW 18.155.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The immediate continuation of this emergency rule is necessary for the preservation of public health, safety, and general welfare. By extending the emergency rule amendment, the department will continue allowing sex offender treatment to occur through telehealth. By allowing treatment through telehealth rather than face-to-face, the department will support both the health of sex offenders, who require access to treatment, and the welfare of the public, who are at risk if offenders recidivate. Additionally, allowing telehealth treatment will help reduce community transmission of COVID-19 during the surge caused by the delta variant. Telehealth treatment is not an ideal substitute for in-person group or individual therapy sessions; however, it is a tool that will allow sex offenders to maintain access to care and will mitigate public health concerns created by COVID-19 while vaccine distribution and surging case counts are ongoing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 29, 2012.

Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

AMENDATORY SECTION (Amending WSR 07-09-092 [21-13-079], filed 4/18/07 [6/15/21], effective 5/19/07 [7/16/21])

WAC 246-930-010 General definitions. In these rules, the following terms shall have the definition described below, unless another definition is stated:

(1) "Affiliate sex offender treatment provider" or "affiliate" means an individual who has satisfactorily passed the examination, met the education requirements, and has been issued a certificate to evaluate and treat sex offenders under chapter 18.155 RCW, and under the supervision of a certified sex offender treatment provider in accordance with the supervision requirements set forth in WAC 246-930-075.

(2) "Certified sex offender treatment provider" or "provider" means an individual who has satisfactorily passed the examination, met the education and experience requirements, and has been issued a certificate by the department to evaluate and treat sex offenders under chapter 18.155 RCW.

(3) "Client" means a person who has been investigated by law enforcement or child protective services for committing or allegedly committing a sex offense, or who has been convicted of a sex offense.

(4) "Committee" means the sex offender treatment providers advisory committee.

(5) "Community protection contract" means the document specifying the treatment rules and requirements the client has agreed to follow in order to maximize community safety.

(6) "Co-therapy hours" means the actual number of hours the applicant spent facilitating a group session.

(7) "Credential" or its derivative means the process of licensing, registration, certification or the equivalent through which a person is legally recognized by a state agency as lawfully authorized to practice a health profession.

(8) "Department" means the department of health.

(9) "Evaluation" means a comprehensive assessment or examination of a client conducted by a provider or affiliate that examines the client's offending behavior. Evaluation results must be detailed in a written report. Examples of evaluations include forensic, SSOSA, and SSODA evaluations. Standards for assessment and evaluation reports, and evaluation experience credit are located in WAC 246-930-320 and 246-930-340.

(10) "Parties" means the defendant, the prosecuting attorney, and the supervising officer.

(11) "Secretary" means the secretary of the department of health, or designee.

(12) "SSODA" means special sex offender disposition alternative, authorized under RCW 13.40.160.

(13) "SSOSA" means special sex offender sentencing alternative, authorized under RCW 9.94A.670.

(14) "Supervising officer" is the designated representative of the agency having oversight responsibility for a client sentenced under SSOSA or SSODA, for example, a community corrections officer or a juvenile probation officer.

(15) "Treatment" means ((~~face-to-face~~)) individual, group, or family therapy, provided by an affiliate or provider, to a client. Treatment is focused on the client's offending behavior.

(16) "Treatment plan" means a written statement of intended care and services as documented in the evaluation that details how the client's treatment needs will be met while protecting the community during the course of treatment.

[Statutory Authority: RCW 18.155.040. WSR 07-09-092, § 246-930-010, filed 4/18/07, effective 5/19/07; WSR 94-13-179, § 246-930-010, filed 6/21/94, effective 7/22/94; WSR 92-12-027 (Order 275), § 246-930-010, filed 5/28/92, effective 6/28/92; WSR 91-23-076 (Order 212), § 246-930-010, filed 11/19/91, effective 12/20/91; WSR 91-11-063 (Order 168), § 246-930-010, filed 5/16/91, effective 6/16/91.]

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 21-22-067
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed October 29, 2021, 8:48 a.m., effective October 29, 2021, 8:48 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: As directed by chapter 334, Laws of 2021 (ESSB 5092), implement July 1, 2021, child care base rate increases paid to family home and center providers who participate in child care subsidy programs and implement collective bargaining agreements the department entered into with SEIU Local 925, representative for family home and family, friend, and neighbor child care providers. The agreements authorize a July 1, 2022, rate increase and payment of field trip fees for family, friend, and neighbor providers, and, for family homes, payment based on an authorized monthly unit of care, increased non-standard hours bonus, new time periods for producing attendance records requested by the department or the state auditor, and new time periods for correcting payment discrepancies.

Citation of Rules Affected by this Order: Amending WAC 110-15-0034, 110-15-0190, 110-15-0200, 110-15-0205, 110-15-0240, 110-15-0247, 110-15-0249, 110-15-0267, 110-15-0268, 110-15-0275, and 110-15-3850,

Statutory Authority for Adoption: RCW 43.216.060 and 43.216.070; chapter 334, Laws of 2021.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Chapter 334, Laws of 2021, took effect May 18, 2021, and authorized July 1 rate increases for the child care subsidy programs. These rules were filed on an emergency basis, effective July 1, 2021. Permanent rule making is underway, but not yet completed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 11, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 29, 2021.

Brenda Villarreal
Rules Coordinator

OTS-3144.3

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0034 Providers' responsibilities. Child care providers who accept child care subsidies must do the following:

(1) Licensed or certified child care providers who accept child care subsidies must comply with all child care licensing or certification requirements contained in this chapter, chapter 43.216 RCW and chapters 110-06, 110-300, (~~(110-300A, 110-300B)~~) 110-300D, and (~~(110-305)~~) 110-301 WAC.

(2) In-home/relative child care providers must comply with the requirements contained in this chapter, chapter 43.216 RCW, and chapters 110-06 and 110-16 WAC.

(3) In-home/relative child care providers must not submit an invoice for more than six children for the same hours of care.

(4) All child care providers must use DCYF's electronic attendance recordkeeping system or a DCYF-approved electronic attendance recordkeeping system as required by WAC 110-15-0126. Providers must limit attendance system access to authorized individuals and for authorized purposes, and maintain physical and environmental security controls.

(a) Providers using DCYF's electronic recordkeeping system must submit monthly attendance records prior to claiming payment. Providers using a DCYF-approved electronic recordkeeping system must finalize attendance records prior to claiming payment.

(b) Providers must not edit attendance records after making a claim for payment.

(5) All child care providers must complete and maintain accurate daily attendance records. If requested by DCYF or DSHS, the provider must provide to the requesting agency the following records:

(a) Attendance records must be provided to DCYF or DSHS within (~~(twenty-eight)~~) forty-five calendar days of the date of a written request from either department; and

(b) Attendance records must be provided to the state auditor's office within thirty calendar days from the date of a written request.

(6) Pursuant to WAC 110-15-0268, the attendance records delivered to DCYF or DSHS may be used to determine whether a provider overpayment has been made and may result in the establishment of an overpayment and in an immediate suspension of the provider's subsidy payment.

(~~((6))~~) (7) All child care providers must maintain and provide receipts for billed field trip/quality enhancement fees as follows. If requested by DCYF or DSHS, the provider must provide the following receipts for billed field trip/quality enhancement fees:

(a) Receipts from the previous twelve months must be available immediately for review upon request by DCYF;

(b) Receipts from one to five years old must be provided within twenty-eight days of the date of a written request from either department.

(~~((7))~~) (8) All child care providers must:

(a) Retain all records required by this chapter for a minimum of five years;

(b) Provide to the department records from the previous twelve months immediately upon the department's written request; and

(c) Provide to the department any records between twelve months and five years old within two weeks of the department's written request.

(9) All child care providers must collect copayments directly from the consumer or the consumer's third-party payor, and report to DCYF if the consumer has not paid a copayment to the provider within the previous sixty days.

~~((8))~~ (10) All child care providers must follow the billing procedures required by DCYF.

~~((9))~~ (11) Child care providers who accept child care subsidies must not:

(a) Claim a payment in any month a child has not attended at least one day within the authorization period in that month; however, in the event a ten-day notice terminating a provider's authorization extends into the following month, the provider may claim a payment for any remaining days of the ten calendar day notice in that following month;

(b) Claim an invoice for payment later than ~~((six))~~ three months after the month of service, or the date of the invoice, whichever is later; or

(c) Charge consumers the difference between the provider's customary rate and the maximum allowed state rate.

~~((10))~~ (12) Licensed and certified providers must not charge consumers for:

(a) Registration fees in excess of what is paid by subsidy program rules;

(b) Days for which the child is scheduled and authorized for care but absent;

(c) Handling fees to process consumer copayments, child care services payments, or paperwork;

(d) Fees for materials, supplies, or equipment required to meet licensing rules and regulations; or

(e) Child care or fees related to subsidy billing invoices that are in dispute between the provider and the state.

~~((11))~~ (13) Providers who care for children in states bordering Washington state must verify they are in compliance with their state's licensing regulations and notify DCYF within ten days of any suspension, revocation, or changes to their license.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-0034, filed 5/31/19, effective 7/1/19. Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq.; 45 C.F.R. Part 98. WSR 19-01-111, § 110-15-0034, filed 12/18/18, effective 1/18/19. WSR 18-14-078, recodified as § 110-15-0034, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 17-12-035, § 170-290-0034, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0034, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0034, filed 4/15/16, effective 5/16/16; WSR 12-11-025, § 170-290-0034, filed 5/8/12, effective 6/8/12.]

AMENDATORY SECTION (Amending WSR 20-08-077, filed 3/26/20, effective 4/26/20)

WAC 110-15-0190 WCCC benefit calculations. (1) The amount of care a consumer may receive is determined by DCYF at application or

reapplication. Once the care is authorized, the amount will not be reduced during the eligibility period unless:

- (a) The consumer requests the reduction;
- (b) The care is for a school-aged child (~~(as described in subsection (3) of this section; or)~~);
- (c) The authorization was for additional care needed for less than the entire length of the authorization period;
- (d) The care was authorized by child protective services (CPS) or child welfare services (CWS) and is part of the child's case plan under WAC 110-15-4510; or
- (e) Incorrect information was given at application or reapplication.

(2) To determine the amount of weekly hours of care needed, DCYF reviews the child care scheduled with the provider, and:

- (a) The consumer's participation in approved activities and the number of hours the child attends school, including home school, which will reduce the amount of care needed(~~(-)~~); or
- (b) (~~(In a two parent household,)~~) The days and times approved activities overlap in a two parent household, and only authorize care during those overlapping times. The consumer is eligible for full-time care if overlapping care totals one hundred ten hours in one month.
- (c) (~~(DCYF will not consider the schedule of)~~) A parent in a two parent household who is not able to care for the child under WAC 110-15-0020 is considered by DCYF to be unavailable for care, regardless of their schedule.

(3) Licensed or certified center child care is authorized as follows:

- (a) Full-time care (~~(for a family using licensed providers)~~) is authorized when the consumer participates in approved activities at least one hundred ten hours per month(~~(+)~~).
- (b) Twenty-three full-day units per month will be authorized when the child is in care five or more hours per day.
- (~~(b)~~) (c) Thirty half-day units per month will be authorized when the child is in care less than five hours per day.
- (~~(e)~~) (d) Forty-six half-day units per month will be authorized during the months of June, July, and August for a school-aged child who is in care for five or more hours per day.

(4) Licensed family home child care is authorized as the following monthly units of care:

- (a) **Full-time monthly unit** of care, equal to twenty-two full day units, is authorized when:
 - (i) A WCCC or SCC consumer participates in approved activities at least one hundred ten hours per month or full-time care is determined to be appropriate and included in a CPS or CWS case plan; and
 - (ii) The child has scheduled care with a single provider at least one hundred ten hours per month.
- (b) **Part-time monthly unit** of care, equal to the actual anticipated full and half day units of care needed averaged over a twelve-month period, is authorized when the care scheduled with a provider is less than one hundred ten hours per month.
- (c) **Full-time partial-day monthly unit** is authorized when a school-age child attends care in a licensed family home and meets the criteria in subsection (5) of this section.
- (d) **Part-time partial-day monthly unit** is authorized when a school-age child attends care in a licensed family home before and af-

ter school and does not meet the criteria for a full-time partial-day monthly unit.

(5) Additional monthly units of care may be authorized when:

(a) The consumer requests an authorization for additional care;

(b) The need for care is verified;

(c) The care is needed to supplement an existing monthly unit for unexpected care need for an approved activity limited to the time frame needed, not to exceed three months;

(d) For actual anticipated overtime when the overtime is included when determining eligibility for child care; or

(e) For sleep time.

(6) Full-time partial-day monthly unit. A single partial-day monthly unit (~~per month will be~~) equal to seventeen partial days and five full days is authorized for a school-age child attending a licensed family home child care when the consumer has at least one hundred ten hours of approved activity per month, and the child is:

(a) Authorized for care with only one provider; (~~and~~)

(b) (~~Eligible for full-time authorization, but is~~) Scheduled for care of one hundred ten hours or more in July and August;

(c) In care less than five hours on a typical school day; and

(~~e~~) Expected to need) (d) Needs care before and after school.

(~~d~~) Only one monthly unit may be authorized per child per month.

~~(5) Supervisor approval is required for additional days of care that exceeds twenty-three full days, thirty half days, or one partial-day monthly unit per month.~~

~~(6)) (7) When determining part-time care for a family using licensed providers when the activity or amount of care needed is less than one hundred ten hours per month:~~

(a) A full-day unit is calculated for each day of care of at least five hours;

(b) A half-day unit will be calculated for each day of care that is less than five hours; and

(c) A partial-day unit is calculated for each day of care in a licensed family home when:

(i) The child is in care before and after school; and

(ii) The total care for the day is less than five hours.

(8) Full-time care for a family using in-home/relative providers (family, friends and neighbors) is authorized when the consumer participates in approved activities at least one hundred ten hours per month:

(a) Two hundred thirty hours of care (~~will be~~) is authorized when the child is in care five or more hours per day;

(b) One hundred fifteen hours of care (~~will be~~) is authorized when the child is in care less than five hours per day;

(c) One hundred fifteen hours of care (~~will be~~) is authorized during the school year for a school-aged child who is in care less than five hours per day and the provider (~~will be~~) is authorized for contingency hours each month, up to a maximum of two hundred thirty hours;

(d) Two hundred thirty hours of care (~~will be~~) is authorized during the school year for a school-aged child who is in care five or more hours in a day; and

(e) Supervisor approval is required for hours of care that exceed two hundred thirty hours per month.

(~~7~~) (9) Care cannot exceed sixteen hours per day, per child.

~~((8))~~ When determining part-time care for a family using licensed providers and the activity is less than one hundred ten hours per month:

~~(a)~~ A full-day unit will be authorized for each day of care that exceeds five hours;

~~(b)~~ A half-day unit will be authorized for each day of care that is less than five hours; and

~~(c)~~ A half-day unit will be authorized for each day of care for a school-aged child, not to exceed thirty half days.

~~(9))~~ (10) When determining part-time care for a family using in-home/relative providers:

(a) Under the provisions of subsection (2) of this section, DCYF ~~((will))~~ authorizes the number of hours of care needed per month when the activity is less than one hundred ten hours per month; and

(b) The total number of authorized hours and contingency hours claimed cannot exceed two hundred thirty hours per month.

~~((10))~~ (11) DCYF determines the allocation of hours or units for families with multiple providers based upon the information received from the parent.

~~((11))~~ (12) DCYF may authorize more than the state rate and up to the provider's private pay rate if:

(a) The parent is a WorkFirst participant; and

(b) Appropriate child care, at the state rate, is not available within a reasonable distance from the approved activity site. "Appropriate" means licensed or certified child care under WAC 110-15-0125, or an approved in-home/relative provider under WAC 110-16-0010. "Reasonable distance" is determined by comparing distances other local families must travel to access appropriate child care.

~~((12))~~ (13) Other fees DCYF may authorize to a provider are:

(a) Registration fees;

(b) Field trip fees;

(c) Nonstandard hours bonus;

(d) Overtime care to a licensed provider when care is expected to exceed ten hours in a day when the consumer is eligible and authorized; and

(e) Special needs rates for a child.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 20-08-077, § 110-15-0190, filed 3/26/20, effective 4/26/20. Statutory Authority: RCW 43.216.055, 43.216.065 and 42 U.S.C. 9858, et seq. WSR 19-08-020, § 110-15-0190, filed 3/26/19, effective 4/26/19. WSR 18-14-078, recodified as § 110-15-0190, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060 and 43.215.070. WSR 17-23-057, § 170-290-0190, filed 11/9/17, effective 12/10/17; WSR 17-18-009, § 170-290-0190, filed 8/24/17, effective 9/24/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0190, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0190, filed 4/15/16, effective 5/16/16; WSR 13-22-040, § 170-290-0190, filed 10/31/13, effective 12/1/13. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0190, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0190, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0190, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.12.340. WSR 06-12-094, §

388-290-0190, filed 6/6/06, effective 7/7/06. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0190, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. WSR 04-08-021 and 04-08-134, § 388-290-0190, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0190, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0190, filed 12/19/01, effective 1/19/02.]

AMENDATORY SECTION (Amending WSR 20-15-161, filed 7/22/20, effective 8/22/20)

WAC 110-15-0200 Daily child care rates—Licensed or certified child care centers and DCYF contracted seasonal day camps. (1) **Base rate.** DCYF pays the lesser of the following to a licensed or certified child care center or DCYF contracted seasonal day camp:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table, effective July 1, (~~2020~~) 2021:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1	Full-Day	(\$36.27) \$41.40	(\$34.32) \$37.50	(\$31.64) \$34.20	(\$30.00) \$33.75
	Half-Day	(\$18.14) \$20.70	(\$17.16) \$18.75	(\$15.82) \$17.10	(\$15.00) \$16.88
Spokane County	Full-Day	(\$49.45) \$59.09	(\$42.32) \$47.73	(\$38.32) \$44.95	(\$27.91) \$34.99
	Half-Day	(\$24.73) \$29.55	(\$21.16) \$23.87	(\$19.16) \$22.48	(\$13.95) \$17.50
Region 2	Full-Day	(\$44.14) \$48.00	(\$34.32) \$36.59	(\$32.82) \$36.50	(\$23.86) \$27.36
	Half-Day	(\$22.07) \$24.00	(\$17.16) \$18.30	(\$16.41) \$18.25	(\$11.93) \$13.68
Region 3	Full-Day	(\$66.86) \$76.36	(\$55.41) \$68.41	(\$48.59) \$57.66	(\$34.77) \$43.64
	Half-Day	(\$33.43) \$38.18	(\$27.70) \$34.21	(\$24.30) \$28.83	(\$17.39) \$21.82
Region 4	Full-Day	(\$84.32) \$95.73	(\$69.09) \$79.55	(\$63.73) \$71.82	(\$39.23) \$45.00
	Half-Day	(\$42.16) \$47.87	(\$34.55) \$39.78	(\$31.86) \$35.91	(\$19.61) \$22.50
Region 5	Full-Day	(\$56.55) \$62.55	(\$46.77) \$54.14	(\$41.91) \$48.08	(\$28.18) \$35.00
	Half-Day	(\$28.27) \$31.28	(\$23.39) \$27.07	(\$20.95) \$24.04	(\$14.09) \$17.50
Region 6	Full-Day	(\$50.36) \$57.00	(\$44.59) \$51.00	(\$40.18) \$47.00	(\$29.41) \$35.91
	Half-Day	(\$25.18) \$28.50	(\$22.30) \$25.50	(\$20.09) \$23.50	(\$14.70) \$17.96

(i) Centers in Clark County are paid Region 3 rates.

(ii) Centers in Benton, Walla Walla, and Whitman counties are paid Region 6 rates.

(2) WAC 110-300-0005 and 110-300-0356 allow providers to care for children from birth up to and including the end of their eligibility period after their thirteenth birthday.

(3) The provider must obtain a child-specific and time-limited exception from DCYF to provide care for a child outside the age listed on the center's license.

(4) If a provider is granted an exception to care for a child who is thirteen years old or older at application or reapplication:

(a) The payment rate is the same as subsection (1) of this section, and the five through twelve year age range column is used for comparison; and

(b) The child must meet the special needs requirement as described in WAC 110-15-0220.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 20-15-161, § 110-15-0200, filed 7/22/20, effective 8/22/20; WSR 19-12-058, § 110-15-0200, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0200, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070 and 2017 3rd sp.s. c 1. WSR 17-21-077, § 170-290-0200, filed 10/16/17, effective 11/16/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0200, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0200, filed 4/15/16, effective 5/16/16; WSR 14-24-070, § 170-290-0200, filed 11/26/14, effective 1/1/15; WSR 14-20-088, § 170-290-0200, filed 9/29/14, effective 10/30/14; WSR 14-12-050, § 170-290-0200, filed 5/30/14, effective 6/30/14; WSR 13-21-113, § 170-290-0200, filed 10/22/13, effective 11/22/13. Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0200, filed 10/5/12, effective 11/5/12. Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0200, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0200, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0200, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0200, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. WSR 04-08-021 and 04-08-134, § 388-290-0200, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0200, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0200, filed 12/19/01, effective 1/19/02.]

AMENDATORY SECTION (Amending WSR 20-15-161, filed 7/22/20, effective 8/22/20)

WAC 110-15-0205 Daily child care rates—Licensed or certified family home child care providers. (1) (~~(Base rate.)~~) Monthly unit. DCYF authorizes care as monthly units as described in WAC 110-15-0190 based on the following full-day, partial-day, and half-day rates.

(2) The calculation of a monthly unit is based on daily rates. For a licensed or certified family home provider, DCYF ((pays)) calculates the monthly unit based on the lesser of the following ((to a licensed or certified family home child care provider)):

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy daily rate for that child as listed in the following table effective July 1, ((2020)) 2021:

	Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Region 1 Full-Day	((34.32)) \$40.00	((34.32)) \$40.00	((29.41)) \$35.00	((29.41)) \$32.00	((27.45)) \$30.00
Half-Day	((17.16)) \$20.00	((17.16)) \$20.00	((14.70)) \$17.50	((14.70)) \$16.00	((13.73)) \$15.00
Partial-Day	\$30.00	\$30.00	\$26.25	\$24.00	\$22.50

	Infants (Birth - 11 mos.)	Enhanced Toddlers (12 - 17 mos.)	Toddlers (18 - 29 mos.)	Preschool (30 mos. - 6 yrs not attending kindergarten or school)	School-age (5 - 12 yrs attending kindergarten or school)
Spokane County	Full-Day (((\$39.23)) \$42.00	Full-Day (((\$39.23)) \$42.00	Full-Day (((\$32.36)) \$40.00	Full-Day (((\$31.18)) \$37.00	Full-Day (((\$29.41)) \$36.00
	Half-Day (((\$19.61)) \$21.00	Half-Day (((\$19.61)) \$21.00	Half-Day (((\$16.18)) \$20.00	Half-Day (((\$15.59)) \$18.50	Half-Day (((\$14.70)) \$18.00
	Partial-Day \$31.50	Partial-Day \$31.50	Partial-Day \$30.00	Partial-Day \$27.75	Partial-Day \$27.00
Region 2	Full-Day (((\$38.23)) \$45.00	Full-Day (((\$38.23)) \$45.00	Full-Day (((\$34.32)) \$37.50	Full-Day (((\$30.86)) \$35.00	Full-Day (((\$29.41)) \$32.00
	Half-Day (((\$19.11)) \$22.50	Half-Day (((\$19.11)) \$22.50	Half-Day (((\$17.16)) \$18.75	Half-Day (((\$15.43)) \$17.50	Half-Day (((\$14.70)) \$16.00
	Partial-Day \$33.75	Partial-Day \$33.75	Partial-Day \$28.13	Partial-Day \$26.25	Partial-Day \$24.00
Region 3	Full-Day (((\$49.00)) \$55.00	Full-Day (((\$49.00)) \$55.00	Full-Day (((\$44.14)) \$48.86	Full-Day (((\$39.27)) \$48.00	Full-Day (((\$34.32)) \$40.00
	Half-Day (((\$24.50)) \$27.50	Half-Day (((\$24.50)) \$27.50	Half-Day (((\$22.07)) \$24.43	Half-Day (((\$19.64)) \$24.00	Half-Day (((\$17.16)) \$20.00
	Partial-Day \$41.25	Partial-Day \$41.25	Partial-Day \$36.65	Partial-Day \$36.00	Partial-Day \$30.00
Region 4	Full-Day (((\$58.82)) \$68.18	Full-Day (((\$58.82)) \$68.18	Full-Day (((\$55.68)) \$63.64	Full-Day (((\$49.00)) \$59.09	Full-Day (((\$34.32)) \$40.00
	Half-Day (((\$29.41)) \$34.09	Half-Day (((\$29.41)) \$34.09	Half-Day (((\$27.84)) \$31.82	Half-Day (((\$24.50)) \$29.55	Half-Day (((\$17.16)) \$20.00
	Partial-Day \$51.14	Partial-Day \$51.14	Partial-Day \$47.73	Partial-Day \$44.32	Partial-Day \$30.00
Region 5	Full-Day (((\$44.14)) \$48.86	Full-Day (((\$44.14)) \$48.86	Full-Day (((\$39.23)) \$42.00	Full-Day (((\$34.32)) \$39.09	Full-Day (((\$31.36)) \$35.71
	Half-Day (((\$22.07)) \$24.43	Half-Day (((\$22.07)) \$24.43	Half-Day (((\$19.61)) \$21.00	Half-Day (((\$17.16)) \$19.55	Half-Day (((\$15.68)) \$17.86
	Partial-Day \$36.65	Partial-Day \$36.65	Partial-Day \$31.50	Partial-Day \$29.32	Partial-Day \$26.78
Region 6	Full-Day (((\$37.86)) \$45.00	Full-Day (((\$37.86)) \$45.00	Full-Day (((\$34.32)) \$43.18	Full-Day (((\$31.36)) \$38.00	Full-Day (((\$28.95)) \$32.50
	Half-Day (((\$18.93)) \$22.50	Half-Day (((\$18.93)) \$22.50	Half-Day (((\$17.16)) \$21.59	Half-Day (((\$15.68)) \$19.00	Half-Day (((\$14.48)) \$16.25
	Partial-Day \$33.75	Partial-Day \$33.75	Partial-Day \$32.39	Partial-Day \$28.50	Partial-Day \$24.38

~~((2) Effective July 1, 2019,)~~ (3) The monthly unit for family home providers in all regions and for all ages will ~~((receive))~~ include a partial-day rate that is seventy-five percent of the full-day rate when:

(a) The family home provider provides child care services for the child during a morning session and an afternoon session. A morning session begins at any time after 12:00 a.m. and ends before 12:00 p.m. An afternoon session begins at any time after 12:00 p.m. and ends before 12:00 a.m.;

(b) The child is absent from care in order to attend school or preschool; and

(c) The family home provider is not entitled to payment at the full-day rate.

~~((d) A child care provider is not entitled to two partial-day rates totaling one hundred fifty percent of the daily rate.~~

~~(3) A single partial-day monthly unit will be authorized for a school-age child who attends a licensed family home child care and is:~~

~~(a) Eligible for a full-time authorization and in care for less than five hours on a typical school day;~~

~~(b) Authorized for care with only one provider; and~~

~~(c) Expected to need care before and after school.~~

Partial-Day Monthly Rates

	July-August 2020	September 2020 - June 2021
Region 1	\$603.90	\$487.24
Spokane	\$647.02	\$522.03
Region 2	\$647.02	\$522.03
Region 3	\$755.04	\$609.18
Region 4	\$755.04	\$609.18
Region 5	\$689.92	\$556.64
Region 6	\$636.90	\$513.86

~~(4) The monthly unit will be prorated for partial months of authorization.~~

~~(5-))~~ (4) Monthly units for school age children will be adjusted for the months of July and August based on the consumer's approved activities and the child's schedule for care during the summer.

(5) School age children will be authorized for twenty-two full days in July and August when:

(a) They are authorized for a full-time, full-time partial-day, monthly unit; or

(b) They are authorized for a part-time, part-time partial-day, monthly unit;

(c) Are scheduled for child care with a single provider at least one hundred ten hours per month; and

(d) The consumer participates in an approved activity at least one hundred ten hours per month.

(6) Monthly units will be prorated for partial months of authorization.

(7) The monthly unit amount is averaged over all months of authorized care. Supplemental payments will not be made for calendar months with more than the average number of care days.

(8) Supplemental authorization for payment may be requested by the consumer for unexpected hours of care needed for allowable activities or changes in the consumer's schedule.

(9) WAC 110-300-0005 and 110-300-0355 allow providers to care for children from birth up to and including the end of their eligibility period after their thirteenth birthday.

~~((6))~~ (10) The provider must obtain a child-specific and time-limited exception from DCYF to provide care for a child outside the age listed on the family home child care license.

~~((7))~~ (11) If a provider is granted an exception to care for a child who is thirteen years of age or older at application or reapplication:

(a) The payment rate is the same as subsection (1) of this section and the five through twelve year age range column is used for comparison; and

(b) The child must meet the special needs requirement as described in WAC 110-15-0220.

~~((8))~~ (12) DCYF pays family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection ~~((9))~~ (13) of this section).

~~((9))~~ (13) DCYF cannot pay family home child care providers to provide care for children in their care if the provider is:

(a) The child's biological, adoptive or step-parent;

(b) The child's legal guardian or the guardian's spouse or live-in partner; or

(c) Another adult acting in loco parentis or that adult's spouse or live-in partner.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 20-15-161, § 110-15-0205, filed 7/22/20, effective 8/22/20; WSR 20-08-077, § 110-15-0205, filed 3/26/20, effective 4/26/20; WSR 19-12-058, § 110-15-0205, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0205, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 17-12-035, § 170-290-0205, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0205, filed 9/21/16, effective 10/22/16. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0205, filed 4/15/16, effective 5/16/16; WSR 14-24-070, §

170-290-0205, filed 11/26/14, effective 1/1/15; WSR 14-20-088, § 170-290-0205, filed 9/29/14, effective 10/30/14; WSR 14-12-050, § 170-290-0205, filed 5/30/14, effective 6/30/14; WSR 13-21-113, § 170-290-0205, filed 10/22/13, effective 11/22/13. Statutory Authority: Chapter 43.215 RCW. WSR 12-21-008, § 170-290-0205, filed 10/5/12, effective 11/5/12. Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0205, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0205, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0205, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). WSR 05-20-051, § 388-290-0205, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. WSR 04-08-021 and 04-08-134, § 388-290-0205, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0205, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0205, filed 12/19/01, effective 1/19/02.]

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0240 Child care subsidy rates—In-home/relative providers. (1) **Base rate.** When a consumer employs an in-home/relative provider, DCYF pays the lesser of the following to an eligible in-home/relative provider for child care:

- (a) The provider's private pay rate for that child; or
- (b) The maximum child care subsidy rate of two dollars and (~~fif-ty-five~~) sixty-five cents per hour per child. Beginning July 1, (~~2020~~) 2022, the maximum child care subsidy rate is (~~two~~) three dollars (~~and sixty-five cents~~) per hour per child.

(2) DCYF may pay above the maximum hourly rate for children who have special needs pursuant to WAC 110-15-0235.

(3) DCYF makes the WCCC payment directly to a consumer's eligible provider.

(4) When applicable, DCYF pays the employer's share of the following:

- (a) Social Security and medicare taxes (FICA) up to the wage limit;
- (b) Federal Unemployment Taxes (FUTA); and
- (c) State unemployment taxes (SUTA).

(5) If an in-home/relative provider receives less than the wage base limit per family in a calendar year, DCYF refunds all withheld taxes to the provider.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-0240, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0240, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 17-12-035, § 170-290-0240, filed 5/31/17, effective 7/1/17. Statutory Authority: RCW 43.215.070, chapter 43.215 RCW. WSR 16-19-107, § 170-290-0240, filed 9/21/16, effective 10/22/16. Statutory Authority:

RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 14-24-070, § 170-290-0240, filed 11/26/14, effective 1/1/15; WSR 14-20-088, § 170-290-0240, filed 9/29/14, effective 10/30/14; WSR 13-21-113, § 170-290-0240, filed 10/22/13, effective 11/22/13. Statutory Authority: RCW 43.215.070, 43.215.060 and chapter 43.215 RCW. WSR 12-11-025, § 170-290-0240, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0240, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0240, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. WSR 05-22-078, § 388-290-0240, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.13.085. WSR 02-12-069, § 388-290-0240, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). WSR 02-01-135, § 388-290-0240, filed 12/19/01, effective 1/19/02.]

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-15-0247 Field trip/quality enhancement fees. (1)

((DSHS)) As funding allows, DCYF pays licensed or certified family home child care providers and in-home/relative providers a monthly field trip/quality enhancement fee up to thirty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fee is required of all parents whose children are in the provider's care. ((~~DEL~~-licensed)) DCYF-licensed or certified child care centers and school-age centers are not eligible to receive the field trip/quality enhancement fee.

(2) The field trip/quality enhancement fee is to cover the provider's actual expenses for:

- (a) Admission;
- (b) Enrichment programs and/or ongoing lessons;
- (c) Public transportation or mileage reimbursement at the state office of financial management rate for the use of a private vehicle;
- (d) The cost of hiring a nonemployee to provide an activity at the child care site in-house field trip activity; and
- (e) The purchase or development of a prekindergarten curriculum.

(3) The field trip/quality enhancement fee shall not cover fees or admission costs for adults on field trips, or food purchased on field trips.

[WSR 18-14-078, recodified as § 110-15-0247, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0247, filed 4/15/16, effective 5/16/16. Statutory Authority: Chapter 43.215 RCW, RCW 43.215.060, 43.215.070, 2011 1st sp.s. c 42, 2011 1st sp.s. c 50, and 2006 c 265 § 501. WSR 11-18-001, § 170-290-0247, filed 8/24/11, effective 9/24/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0247, filed 10/28/09, effective 12/1/09. WSR 08-08-047, recodified as § 170-290-0247, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. WSR 04-08-021 and 04-08-134, § 388-290-0247, filed 3/29/04 and 4/7/04, effective 5/28/04.]

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0249 Nonstandard hours bonus. (1) A consumer's provider may receive a nonstandard hours bonus (NSHB) payment per child per month for care provided if:

- (a) The provider is licensed or certified;
- (b) The provider provides at least thirty hours of nonstandard hours care during one month; and
- (c) The total cost of the NSHB to the state does not exceed the amount appropriated for this purpose by the legislature for the current state fiscal year.

(2) Nonstandard hours are defined as:

- (a) Before 6 a.m. or after 6 p.m.;
- (b) Any hours on Saturdays and Sundays; and
- (c) Any hours on legal holidays, as defined in RCW 1.16.050.

(3) NSHB amounts are:

- (a) (~~Seventy-six~~) Ninety dollars (~~and fifty cents~~) for family homes; and
- (b) Seventy-five dollars for centers.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-0249, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0249, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0249, filed 4/15/16, effective 5/16/16. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0249, filed 10/28/09, effective 12/1/09.]

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0267 Payment discrepancies—Provider underpayments.

(1) Underpayments to a provider occur if DCYF pays less than the amount the provider is eligible to receive.

(2) Underpayment requests will only be considered by (~~DSHS~~) DCYF if the provider submitted the original invoice for payment to DCYF no later than (~~six~~) three months after the date of service.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-0267, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0267, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 16-09-059, § 170-290-0267, filed 4/15/16, effective 5/16/16. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0267, filed 10/28/09, effective 12/1/09.]

AMENDATORY SECTION (Amending WSR 19-08-020, filed 3/26/19, effective 4/26/19)

WAC 110-15-0268 Payment discrepancies—Provider overpayments.

(1) An overpayment occurs when a provider receives payment that is more than the provider is eligible to receive. Provider overpayments are established when that provider:

(a) Bills and receives payment for services not provided;

(b) Bills without attendance records that support the billing. Beginning July 1, 2018, attendance must be recorded using DCYF's electronic attendance system or a DCYF-approved electronic attendance system. Any other format for recording attendance will not be considered valid support for a provider billing and may result in an overpayment;

(c) Bills and receives payment for more than the provider is eligible to bill;

(d) Routinely provides care in a location other than what was approved at the time of authorization;

(e) With respect to license-exempt in-home/relative providers, bills the state for more than six children at one time for the same hours of care; or

(f) With respect to licensed or certified providers:

(i) Bills the state for more than the number of children in the provider's licensed capacity; or

(ii) Is caring for a child receiving WCCC benefits outside the provider's licensed allowable age range without a DCYF-approved exception; or

(g) With respect to certified providers caring for children in a state bordering Washington:

(i) Is determined to not be in compliance with the state's licensing regulations; or

(ii) Fails to notify (~~(DSHS)~~) DCYF within ten days of any suspension, revocation, or change to the provider's license.

(2) DCYF (~~(or DSHS)~~) will request documentation from a provider when preparing to establish an overpayment. The provider must provide requested information within (~~(twenty-eight consecutive)~~) forty-five calendar days from the date of the written request.

(3) A provider must repay any payments that the provider was not eligible to receive.

(4) A provider must repay any overpayment, even if the overpayment is the result of a DCYF (~~(or DSHS)~~) error in issuing payment the provider was not eligible to receive.

[Statutory Authority: RCW 43.216.055, 43.216.065 and 42 U.S.C. 9858, et seq. WSR 19-08-020, § 110-15-0268, filed 3/26/19, effective 4/26/19. WSR 18-14-078, recodified as § 110-15-0268, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070 and 2017 3rd sp.s. c 1 § 615. WSR 17-23-033, § 170-290-0268, filed 11/7/17, effective 12/8/17. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 17-12-035, § 170-290-0268, filed 5/31/17, effective 7/1/17; WSR 12-11-025, § 170-290-0268, filed 5/8/12, effective 6/8/12. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0268, filed 10/28/09, effective 12/1/09.]

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0275 Payment discrepancies—Providers. (1) This section applies to all child care providers.

(2) Providers must submit a billing invoice for payment within ~~((six))~~ three months of the date child care services are provided. Any invoice submitted more than ~~((six))~~ three months from date child care services are provided will not be processed.

(3) For purposes of correcting payment errors based on correctly submitted invoices under the provisions of subsection (2) of this section, the following time limits apply:

(a) For underpayments:

(i) Two years back from the date the payment was issued if the error was based on rates paid by age or region, except as provided in (a)(iii) of this subsection; or

(ii) Three years back from the date payment was issued if the error was based on any issue other than rates paid by age or region; and

(iii) Three years back from the date the payment was issued for any underpayment identified by a federal or state audit.

(b) For overpayments:

(i) Two years back from the date payment was issued if the error was based on rates paid by age or region, except as provided in

(b)(iii) of this subsection; and ~~((DSHS or))~~ DCYF must notify the provider of the overpayment by personal service or by certified mail, return receipt requested, within two years of the date the payment was issued; or

(ii) Three years back from the date payment was issued if the error was based on any issue other than rates paid by age or region; DSHS or DCYF must notify the provider of the overpayment by personal service or by certified mail, return receipt requested, within three years of the date the payment was issued; and

(iii) Three years back from the date the payment was issued for any overpayment identified by a federal or state audit; ~~((DSHS or))~~ DCYF must notify the provider of the overpayment by personal service or by certified mail, return receipt requested, within three years of the date the payment was issued.

(4) For in-home/relative and family home child care providers, disputes regarding underpayments may be addressed through the grievance process provided for in the collective bargaining agreement.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-0275, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-0275, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070 and 2017 3rd sp.s. c 1 § 615. WSR 17-23-033, § 170-290-0275, filed 11/7/17, effective 12/8/17. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-0275, filed 10/28/09, effective 12/1/09.]

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-3850 Payment discrepancies generally. Child care subsidy payment discrepancies are described in WAC 110-15-0266 through 110-15-0275, with the exception of underpayments requested by licensed child care centers, which will only be considered for (~~six~~) three months after the date of services.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 19-12-058, § 110-15-3850, filed 5/31/19, effective 7/1/19. WSR 18-14-078, recodified as § 110-15-3850, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.060, 43.215.070, and chapter 43.215 RCW. WSR 11-12-078, § 170-290-3850, filed 5/31/11, effective 7/1/11. Statutory Authority: RCW 43.215.060, 43.215.070, 2006 c 265, and chapter 43.215 RCW. WSR 09-22-043, § 170-290-3850, filed 10/28/09, effective 12/1/09.]

WSR 21-22-069

EMERGENCY RULES

DEPARTMENT OF COMMERCE

[Filed October 29, 2021, 9:07 a.m., effective November 1, 2021]

Effective Date of Rule: November 1, 2021.

Purpose: Commerce received a request from a water heater manufacturer on September 29, 2021, to temporarily suspend the water heater appliance standards rule (WAC 194-24-180) due to economic and supply chain disruptions resulting from the COVID-19 pandemic, which are impeding manufacturers from obtaining parts for the modular communications port (CTA-2045) required under this rule. Following a public comment period with participation from manufacturers, installers, energy efficiency organizations, environmental organizations, and electric utilities, commerce concludes that suspension of the rule's effective date is in the public interest.

Citation of Rules Affected by this Order: Amending WAC 194-24-180.

Statutory Authority for Adoption: Chapter 19.260 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The economic disruptions resulting from the COVID-19 pandemic continue to stymie global supply chains, preventing manufacturers from accessing critical materials required for manufacturing the electronic communication ports. These disruptions are already affecting the supply of compliant heat pump water heaters, which are primarily installed in new buildings, and can be expected to escalate in January 2022 when standard resistance water heaters would become covered by the standard.

The current effective dates in the rule, combined with these supply chain constraints, are already causing the installation of resistance water heaters over heat pump water heaters. This harms the state's ability to keep consumer prices low and conserve energy, due to resistance water heaters' diminished energy efficiency. Absent this suspension, when the rule for resistance heaters goes into effect the general welfare of the state will foreseeably be impaired due to no or diminished availability of water heater options for consumers and related impacts to energy conservation and efficiency.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 29, 2021.

Dave Pringle

OTS-3425.1

AMENDATORY SECTION (Amending WSR 20-03-013, filed 1/6/20, effective 2/6/20)

WAC 194-24-180 Electric storage water heaters. (1) **Scope.** This rule applies to new electric storage water heaters manufactured on or after January 1, 2021. The effective date of the rule is suspended until ((January)) March 1, 2022((, for electric storage water heaters other than heat pump type water heaters)).

(2) **Standard.** Electric storage water heaters must have a modular demand response communications port compliant with:

(a) The March 2018 version of the ANSI/CTA-2045-A communication interface standard, or a standard determined by the department to be equivalent; and

(b) The March 2018 version of the ANSI/CTA-2045-A application layer requirements.

The interface standard and application layer requirements required in this subsection are the versions established in March 2018.

(3) Upon written request by a manufacturer, the department will determine whether an alternative communications port and communication interface standard are equivalent for the purposes of subsection (2) of this section.

(a) Any requested alternative must use a standard that is open and widely available and must provide the demand response functions provided using the standards identified in subsection (2) of this section.

(b) A request for designation of a standard must provide technical documentation demonstrating that the standard satisfies the requirements in (a) of this subsection and must describe any industry or stakeholder process used in developing the standard. The department will provide reasonable opportunity for input by utilities, manufacturers, technical experts and other interested stakeholders prior to determining whether the proposed standard is equivalent. The department will make available on a publicly accessible website any standard that it determines to be equivalent.

(4) **Testing.** There is no test method required for this product.

(5) **Listing.** There is no listing requirement for this product.

(6) **Marking.** Every unit of every electric storage water heater must have a label or marking indicating compliance with the standard in this section. The format and content of the label or marking must be approved in advance by the department.

[Statutory Authority: RCW 19.260.070. WSR 20-03-013, § 194-24-180, filed 1/6/20, effective 2/6/20.]

WSR 21-22-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-243—Filed October 29, 2021, 4:39 p.m., effective October 30, 2021]

Effective Date of Rule: October 30, 2021.

Purpose: Amends Puget Sound commercial salmon fisheries for Puget Sound Salmon Management and Catch Reporting Areas 6D, 10, 11, 12, and 12B.

Citation of Rules Affected by this Order: Amending WAC 220-354-120 and 220-354-160.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to add and/or modify commercial purse seine and gillnet fishery openings targeting chum salmon in Puget Sound Salmon Management and Catch Reporting Areas 6D, 10, and 11 because recent in-season information indicates a larger coho (Area 6D) and chum returns (Areas 10 and 11) than originally forecast. Sufficient returns are available for the increased harvest opportunity. Available in-season data indicates that the return of chum to Areas 12 and 12B are below preseason forecasts and no additional chum fishing is proposed for the week of November 1 through November 5, 2021. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 29, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-354-12000F Puget Sound salmon—Purse seine—Open periods. Effective 7:00 AM, November 1, until 6:00 PM, November 1, 2021 the following provisions of WAC 220-354-160 regarding commercial Purse Seine open periods in Puget Sound Salmon Management and Catch Reporting Areas 10, 11, 12, and 12B shall be as follows. All other provi-

sions of WAC 220-351-210 not contained herein remain in effect unless otherwise altered by emergency rule:

Areas	Open/Closed	Time	Date(s)
10, 11	Open	7 AM - 6 PM	11/1/2021
12, 12B	Closed	-	11/1 - 11/5

[]

NEW SECTION

WAC 220-354-16000R Puget Sound salmon—Gillnet—Open periods.

Effective October 30 through November 5, 2021, the following provisions of WAC 220-354-160 regarding commercial gillnet open periods for Puget Sound Salmon Management and Catch Reporting Areas 6D, 10, 11, 12 and 12B and shall be as described below. All other provisions of WAC 220-354-120 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Area	Open/Closed	Time	Date(s)
6D	Open	7 AM - 7 PM Daily	11/1 - 11/5
10, 11	Open	4 PM - 7 AM Daily	10/31/2021
10, 11	Open	4 PM - 8AM Daily	11/3/2021
12, 12B	Closed	-	11/1 - 11/5

[]

WSR 21-22-084
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed November 1, 2021, 3:33 p.m., effective November 1, 2021, 3:33 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is adopting emergency amendments to WAC 388-424-0001 Citizenship and alien status—Definitions, 388-424-0020 How does my alien status impact my eligibility for federally funded Basic Food benefits?, and 388-466-0005 Immigration status requirements for refugee cash assistance.

These amendments are necessary to allow evacuees from Afghanistan paroled into the United States as humanitarian parolees under the Afghanistan Supplemental Appropriations Act, 2022, P.L. 117-43, sec. 2502, to receive federally funded benefits to the same extent as refugees. This second emergency adoption amends and supersedes the emergency rule adopted under WSR 20-17-098.

Citation of Rules Affected by this Order: Amending WAC 388-424-0001, 388-424-0020, and 388-466-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.08A.120.

Other Authority: Afghanistan Supplemental Appropriations Act, 2022, P.L. 117-43, sec. 2502.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Federal law (P.L. 117-43) has extended eligibility to parolees effective October 1, 2021.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: November 1, 2021.

Katherine I. Vasquez
Rules Consultant

SHS-4902.2

AMENDATORY SECTION (Amending WSR 20-09-044, filed 4/8/20, effective 5/9/20)

WAC 388-424-0001 Citizenship and alien status—Definitions. For the purposes of determining an individual's citizenship and alien status for public assistance, the following definitions apply:

(1) **"Lawfully present"** are immigrants or noncitizens who have been inspected and admitted into the United States and not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and Immigrant Services (CIS) to stay or live in the U.S.

(2) **"Qualified aliens"** are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Lao-tian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified or approved as victims of trafficking by the federal office of refugee resettlement.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old.

(iii) Afghan nationals and their spouses and children, paroled in the U.S. between July 31, 2021, and September 30, 2022, after evacuation from Afghanistan to the U.S., or to a location overseas.

(iv) Special immigrants from Iraq and Afghanistan are individuals granted:

(A) Special immigrant status under INA §101 (a) (27);

(B) Special immigrant conditional permanent resident; or

(C) Paroled under section 602 (B) (1) AAPA/Sec 1059(a) NDAA 2006.

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti, who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age twenty-one of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned twenty-one years old. Children

of abused persons who meet the conditions above retain their "qualified alien" status even after they turn twenty-one years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212 (d)(5), including "public interest" parolees.

(g) Individuals granted withholding of deportation or removal under INA §243(h) or §241 (b)(3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203 (a)(7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) **"Nonqualified aliens"** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (1) of this section. Nonqualified aliens include but are not limited to:

(a) Citizens of Marshall Islands, Micronesia or Palau;

(b) Immigrants paroled into the U.S. for less than one year;

(c) Immigrants granted temporary protected status; or

(d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also nonqualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(4) **"Undocumented aliens"** are noncitizens without a lawful immigration status as defined in subsections (2) or (3) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

(5) **"U.S. citizens"** are one of the following:

(a) Individuals born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.

(e) Individuals who turn eighteen years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals who turned eighteen before February 27, 2001, would have automatically become a citizen if, while the individual was still under eighteen, he or she became a lawful permanent resident and both his or her parents naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

(6) **"U.S. nationals"** are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 20-09-044, § 388-424-0001, filed 4/8/20, effective 5/9/20. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0001, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.020, and Sec. 8120 of Pub. L 111-118 (DOD appropriations law); USDA Food and Nutrition Service federal guidance from January 29, 2010; U.S. DHHS Administration for Children and Families, Office of Family Assistance federal guidance letter No. TANF-ACF-PI-2010-05 issued on June 16, 2010. WSR 10-15-045, § 388-424-0001, filed 7/13/10, effective 7/27/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0001, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0001, filed 7/7/04, effective 8/7/04.]

AMENDATORY SECTION (Amending WSR 12-18-024, filed 8/27/12, effective 9/27/12)

WAC 388-424-0020 How does my alien status impact my eligibility for federally funded Basic Food benefits? (1) If you are a U.S. citizen or U.S. national as defined in WAC 388-424-0001 and meet all other eligibility requirements, you may receive federal Basic Food benefits.

(2) If you are not a U.S. citizen or U.S. national, you must fall within (a) or (b) of this subsection, and meet all other eligibility requirements, in order to receive federal Basic Food benefits:

(a) You are a member of one of the following groups of lawful immigrants as defined in WAC 388-424-0001:

(i) Amerasian;

(ii) Asylee;

(iii) Cuban or Haitian entrant;

(iv) Deportation or removal withheld;

(v) Refugee;

(vi) Afghan nationals paroled into the U.S. between July 31, 2021, and September 30, 2022;

- (vii) Special immigrant from Iraq or Afghanistan;
 ((~~vii~~)) (viii) Victim of trafficking;
 ((~~viii~~)) (ix) Noncitizen American Indian; or
 ((~~ix~~)) (x) Hmong or Highland Lao tribal member.

(b) (i) You are a member of one of the following groups of qualified aliens as defined in WAC 388-424-0001:

- (A) Conditional entrant;
 (B) Lawful permanent resident (LPR);
 (C) Paroled for one year or more; or
 (D) Abused spouse or child or parent or child of an abused spouse or child.

(ii) And, one of the following also applies to you:

- (A) You have worked or can get credit for forty Social Security Administration (SSA) work quarters - as described in WAC 388-424-0008;
 (B) You are an active duty personnel or honorably discharged veteran of the U.S. military or you are the spouse, unmarried surviving spouse, or unmarried dependent child of someone who meets this requirement, as described in WAC 388-424-0007;
 (C) You receive cash or medical benefits based on supplemental security income (SSI) criteria for blindness or disability;
 (D) You have lived in the U.S. as a "qualified alien" as described in WAC 388-424-0001 for at least five years;
 (E) You are under age eighteen; or
 (F) You were lawfully residing in the U.S. on August 22, 1996 and were born on or before August 22, 1931.

(3) If you are a legal immigrant not eligible for federal benefits under Basic Food only because of your alien status, you may be eligible for state-funded food assistance program (FAP) benefits under WAC 388-400-0050.

[Statutory Authority: RCW 74.04.005, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 12-18-024, § 388-424-0020, filed 8/27/12, effective 9/27/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.500, 74.04.510, 74.08.090, and 74.08A.120. WSR 11-02-035, § 388-424-0020, filed 12/29/10, effective 2/1/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.020, and Sec. 8120 of Pub. L 111-118 (DOD appropriations law); USDA Food and Nutrition Service federal guidance from January 29, 2010; U.S. DHHS Administration for Children and Families, Office of Family Assistance federal guidance letter No. TANF-ACF-PI-2010-05 issued on June 16, 2010. WSR 10-15-045, § 388-424-0020, filed 7/13/10, effective 7/27/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.320, Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement State Letter 09-17 from April 9, 2009; and federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture. WSR 09-21-046, § 388-424-0020, filed 10/14/09, effective 11/4/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0020, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0020, filed 7/7/04, effective 8/7/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, and 74.04.510. WSR 03-05-029, § 388-424-0020, filed 2/10/03, effective 4/1/03. Statu-

tory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and H.R. 2646 Farm Security and Rural Investment Act of 2002. WSR 02-22-046, § 388-424-0020, filed 10/30/02, effective 12/1/02. Statutory Authority: RCW 74.04.510, S. 1150, the Agricultural Research, Extension, and Education Reform Act of 1998. WSR 99-01-058, § 388-424-0020, filed 12/11/98, effective 1/11/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-424-0020, filed 7/31/98, effective 9/1/98. Formerly WAC 388-518-1805.]

AMENDATORY SECTION (Amending WSR 12-19-037, filed 9/12/12, effective 10/13/12)

WAC 388-466-0005 Immigration status requirements for refugee cash assistance. (1) You may be eligible for refugee cash assistance (RCA) if you can provide documentation issued by the U.S. Citizenship and Immigration Services (USCIS), that you are:

- (a) Admitted as a refugee under section 207 of the Immigration and Nationalities Act (INA);
- (b) Paroled into the U.S. as a refugee or asylee under section 212 (d) (5) of the INA;
- (c) Granted conditional entry under section 203 (a) (7) of the INA;
- (d) Granted asylum under section 208 of the INA;
- (e) Admitted as an Amerasian Immigrant from Vietnam through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 Continuing Resolution P.L. 100-212;
- (f) A Cuban-Haitian entrant who was admitted as a public interest parolee under section 212 (d) (5) of the INA;
- (g) Certified as a victim of human trafficking by the federal office of refugee resettlement (ORR);
- (h) An eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 Visa;
- (i) Afghan nationals paroled into the U.S. between July 31, 2021, and September 30, 2022;
- (j) Admitted as Special Immigrant from Iraq or Afghanistan under section 101 (a) (27) of the INA, or special immigrant conditional permanent resident, or paroled under section 602 (B) (1) AAPA/Sec 1059(a) NDAA 2006.

(2) A permanent resident alien meets the immigration status requirements for RCA if the individual was previously in one of the statuses described in subsections (1)(a) through (g) of this section.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.250, and 2011 1st sp.s. c 15. WSR 12-19-037, § 388-466-0005, filed 9/12/12, effective 10/13/12. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-466-0005, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-466-0005, filed 7/31/98, effective 9/1/98.]

WSR 21-22-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-244—Filed November 1, 2021, 4:48 p.m., effective November 1, 2021, 4:48 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open salmon seasons at the Ringold Springs Hatchery access area.

Citation of Rules Affected by this Order: Amending WAC 220-312-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to open salmon seasons at the Ringold Springs Hatchery access area.

Ringold Springs Hatchery began rearing and releasing coho in 2019 with the first release of 250,000 juvenile fish to the Columbia River at Ringold in 2020. Adult coho returns to the hatchery are expected to be sufficient to provide a limited fishery in this area of the Columbia River.

There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 1, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-06000E Freshwater exceptions to statewide rules—Columbia Effective Immediately, through November 15, 2021, provisions of WAC 220-312-060 regarding Columbia River salmon seasons from 1/4 mile downstream of the Ringold wasteway outlet to 1/2 mile upstream of Ringold Springs Hatchery Creek are modified as described below. All other provisions of WAC 220-312-060 not addressed herein, or unless otherwise amended by emergency rule remain in effect:

1/4 mile downstream of the Ringold wasteway outlet to 1/2 mile upstream of Ringold Springs Hatchery Creek: Salmon:

Daily limit 6. Up to 2 adults may be retained. Release all salmon other than Chinook and coho. Angling allowed from the bank only.

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WSR 21-22-101
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-246—Filed November 2, 2021, 1:18 p.m., effective November 2, 2021, 1:18 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The provisions of this emergency rule:

WAC 220-340-42000S:

(1) Requires all crab harvested to be delivered to an original receiver or recorded on a shellfish transportation ticket within 36 hours of harvest. Requires separate transportation tickets to be completed for each day's harvest not delivered to an original receiver that is stored off the fishing vessel. Implements a 10-day restriction on the length of time that crab may be stored off-vessel before being delivered to an original receiver.

(2) Implements a labeling requirement for crab that are stored off-vessel.

(3) Implements a labeling requirement for crab that are stored off-vessel and not delivered to an original receiver within 36 hours.

WAC 220-340-45500B:

(1) Defines subareas east and west of MSFS catch area 23C to align with agreed to boundaries within the Region 3 2021-2022 crab management plan.

(2) Opens Puget Sound commercial crab harvest in Crab Management Regions 1, 2 West, 3-1, 3-2 and 3-3 effective immediately. Describes hard closure dates by crab management region. Closes Crab Management Region 1 effective November 3, 2021, at 7:00 p.m.; maintains closure of Crab Management Region 2 East, which closed October 17, 2021, at 11:59 p.m.

(3) Allows deployment of up to 50 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 2-West and 3-2.

(4) Allows deployment of up to 40 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-1.

(5) Allows deployment of up to 60 pots per license for the commercial harvest of Dungeness crab in Crab Management Regions 3-3.

(6) Requires undeployed buoy tags to be retained for inspection.

(7) Closes Port Angeles Harbor to commercial crab harvest due to public health decrees.

(8) Closes commercial crab harvest in Crab Management Region 3-4 until further notice.

(9) Closes areas to state commercial that have been agreed to in Regional management plans.

(10) Repeals areas where recreational and tribal harvest has been allowed that state commercial harvest has been historically limited.

(11) Repeals areas where recreational and tribal harvest has been allowed that state commercial harvest has been historically closed.

WAC 220-352-34000K:

(1) Clarifies the Puget Sound commercial dealer quick reporting requirements.

(2) Implements a Puget Sound "stored crab" harvest report requirement for crab not delivered to an original receiver with 36 hours of harvest.

(3) Implements a Puget Sound sales report requirement for stored crab that have been reported but not landed.

(4) Implements a registration requirement for commercial license holders to notify the department which crab management area a license will be fishing in.

Citation of Rules Affected by this Order: Repealing WAC 220-340-42000R, 220-340-45500A and 220-352-34000J; and amending WAC 220-340-420, 220-340-455, and 220-352-340.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: There is sufficient allocation available in 2-West, 3-1, 3-2, and 3-3 to accommodate continued commercial harvest. Commercial crab harvest in Crab Management Region 1 will close on Wednesday, November 3, 2021, at 7:00 p.m. to reserve a portion of the remaining quota for later harvest based on preseason fishery planning objectives. These provisions are in conformity with agreed regional management plans with applicable tribes or in accordance with procedures proscribed in the shellfish implementation plan when no annual regional management plan agreement has been reached. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 0, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 2, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-42000S Commercial crab fishery—Unlawful acts. Notwithstanding the provisions of WAC 220-340-420:

(1) Crab Management Region 1 includes Marine Fish-Shellfish (MFSF) Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B. Crab Management Region 2E includes MFSF Catch Reporting Areas 24A, 24B, 24C,

24D, and 26A East. Crab Management Region 2 West includes MFSF Catch Reporting Areas 25B, 25D, and 26A West. Crab Management Region 3-1 includes MFSF Catch Reporting Areas 23A and 23B. Crab Management Region 3-2 includes MFSF Catch Reporting Areas 25A, 25E, and 23D. Crab Management Region 3-3 includes MFSF Catch Reporting Areas 23C East, and Crab Management Region 3-4 consists of 23C West and 29.

(2) Effective immediately, until further notice, all crab removed from a vessel licensed in Puget Sound that are not delivered to an original receiver within 36 hours must be recorded on a commercial fish and shellfish transportation ticket. Separate commercial fish and shellfish transportation tickets must be filled out for each day's harvest stored this way. It is illegal to store crab prior to delivery and completion of a fish receiving ticket for more than 10 days.

(3) Effective immediately, until further notice, all crab that have been removed from a vessel must be stored in containers labeled with the following:

(a) date of harvest,

(b) an estimate of pounds of crab contained,

(c) either the Marine Fish-Shellfish (MFSF) Catch Reporting Area or the Crab Management Region the catch originated from.

(4) Effective immediately, until further notice, all crab that have been removed from a vessel and are not delivered to an original receiver within 36 hours must be stored in containers labeled with the following:

(a) date of harvest,

(b) an estimate of pounds of crab contained,

(c) either the Marine Fish-Shellfish (MFSF) Catch Reporting Area or the Crab Management Region the catch originated from, and

(d) Commercial fish and shellfish transportation ticket number.

[]

NEW SECTION

WAC 220-340-45500B Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455:

(1) For the purposes of crab harvest allocation, fishing season, and catch reporting, the following Marine Fish-Shellfish Catch Reporting Areas are modified as follows:

(a) Catch Area 23C East (23C-E) includes those waters of Puget Sound westerly of a line due north from the Ediz Hook light to the international boundary; and easterly of a line projected due north from Low Point.

(b) Catch Area 23C West (23C-W) includes those waters of Puget Sound westerly of a line due north from Low Point to the international boundary; and easterly of a line projected due north from the mouth of the Sekiu River.

(2) It is permissible to harvest Dungeness crab for commercial purposes from the following areas as listed:

(a) Region 1:

(i) Marine Fish-Shellfish Catch Areas 21A, 21B, and 22B; effective immediately through November 3, 2021 at 7:00 p.m.

(ii) Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B; effective immediately through November 3, 2021 at 7:00 p.m.

(b) Region 2 West:

Crab Management Region 2-W; effective immediately through February 15, 2022.

(c) Region 3:

(i) Crab Management Region 3-1; effective immediately, until further notice.

(ii) Crab Management Region 3-2; effective immediately, until further notice.

(iii) Crab Management Region 3-3; effective immediately, until further notice.

(3) Effective November 3, 2021 at 7:00 p.m. until further notice, it is unlawful to deploy any pots to harvest crabs for commercial purposes in Crab Management Region 1.

(4) Effective immediately, until further notice, it is unlawful to deploy any pots to harvest crabs for commercial purposes in Crab Management Region 2E.

(5) Effective immediately, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Regions 2 West and 3-2 with the following exceptions:

(a) Region 2 West:

Commercial harvest is limited to 20 pots per license in those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line projected from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin until 11:59 p.m. December 31, 2021.

(b) Region 3-2:

(i) Commercial harvest is limited to 20 pots per license within the Sequim Bay Special Management Area which consists of all waters of Sequim Bay south of a line true west from Travis Spit to the Miller Peninsula until further notice.

(ii) Commercial harvest is limited to 20 pots per license within the Discovery Bay Special Management Area defined as all waters of Discovery Bay south of a line from Diamond Point to Cape George until further notice

(6) Effective immediately, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 40 pots per license per buoy tag number in Crab Management Region 3-1.

(7) Effective immediately, until further notice, it is unlawful for any person to harvest crabs for commercial purposes with more than 60 pots per license per buoy tag number in Crab Management Region 3-3.

(8) All remaining, undeployed buoy tags per license per region must be onboard the designated vessel and available for immediate inspection.

(9) Public Health Closures: effective immediately, until further notice, the following areas are closed to commercial crab fishing:

That portion of Marine Fish/Shellfish Catch Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

(10) Closure of areas with insufficient commercial share remaining: effective immediately, until further notice, the following areas are closed to commercial crab fishing: Crab Management Region 3-4.

(11) Management Plan Tribal Exclusive Closures: effective immediately, until further notice, the following areas are closed to commercial crab fishing:

Region 3-2:

Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A previously described as "west of a line from the new Dungeness Light to the abandoned dock at the Three Crabs Restaurant" now described as the Dungeness Bay Special Management Area which include all waters of Dungeness Bay west of the 123°6.50' Longitude line originating from the New Dungeness Light (48°10.90'N, 123°6.50'W).

(12) Limited Commercial Areas: It is permissible to harvest Dungeness crab for commercial purposes from the following areas as listed:

(a) Region 1, effective immediately, until November 3, 2021 at 7:00 p.m.:

(i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(ii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(iii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(b) Region 2 West, effective immediately, until further notice:

Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A-W in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47°58.782'N, 122°30.840'W) projected 110 degrees true to the boulder on shore (47°57.690'N, 122°26.742'W).

(13) Commercial exclusion areas: It is permissible to harvest crab for commercial purposes from the following areas as listed:

(a) Region 1, effective immediately, until November 3, 2021 at 7:00 p.m.:

(i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Point Williams to Fish Point in waters shallower than 60 feet in depth.

(ii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

(iii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

(iv) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A inside of Chuckanut Bay east of a line projected north from Governor's Point to the east side of Chuckanut Island, thence to Chuckanut Rock, thence to the most southerly tip of Clark's Point.

(v) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to its intersection with Shaw Island.

(vi) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

(vii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected through Crab and Fortress Islands intersecting Lopez Island at either end.

(viii) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected easterly from the northern end of the eastern most oil dock at March Point to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore and following the shoreline to the point of origin.

(ix) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B, which includes all waters of Prevost Harbor between Stuart Island and Satellite Island southwest of a line from Charles Point on Stuart Island to the northwest tip of Satellite Island and southwest of a line projected 120 degrees true from the southeast end of Satellite Island to Stuart Island.

(x) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in East Sound north of a line from the southern point of Judd Bay on the west to Giffin Rocks on the east.

(b) Region 3-2, effective immediately, until further notice:

Those waters of Discovery Bay, Area 25E south of a line from Contractors Point to Tukey Point.

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Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 220-352-34000K Puget Sound crab—Additional reporting requirements. Notwithstanding the provisions of WAC 220-352-340,

(1) Effective immediately, until further notice, it is unlawful for any wholesale dealer acting in the capacity of an original receiver of Dungeness crab landed by WDFW licensed Puget Sound commercial crab harvesters to fail to report to the department the previous day's purchases by 10:00 a.m. the day following the purchase. Reports must be made online at the Puget Sound commercial crab reporting website, by fax to (360) 302-3031, or by e-mail at crab.report@dfw.wa.gov. Reports must include all of the following:

- (a) dealer name,
- (b) dealer license number,
- (c) dealer phone number,
- (d) date of delivery of crab to the original receiver, and
- (e) the total number of pounds of crab caught by non-treaty fishers by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area.

(2) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must deliver all crab removed from their vessel to a licensed original receiver within 36 hours or submit a report of crab retained for delivery at a future date to the Department. Reports must be received within 36 hours following an offload. Reports must be made online on the Puget Sound commercial crab reporting website or by e-mail at crab.report@dfw.wa.gov. Reports must contain all of the following:

- (a) harvester name,
- (b) WDFW issued vessel ID,
- (c) Puget Sound commercial license number,
- (d) date of harvest,

(e) an estimate of pounds of harvest retained by Crab Management Region or Marine Fish-Shellfish Management and Catch Reporting Area, and

(f) a commercial fish and shellfish transportation ticket number.

(3) Effective immediately, until further notice, commercial harvesters of crab in Puget Sound must report the delivery of all crab to an original receiver that were previously retained off-vessel by 10:00 a.m. the day following delivery to an original receiver. Reports must be made online at the Puget Sound commercial crab reporting website, or by e-mail at crab.report@dfw.wa.gov. Reports must contain all of the following:

(a) harvester name,

(b) WDFW issued vessel ID,

(c) Puget Sound commercial license number,

(d) date of sale,

(e) dealer name,

(f) commercial shellfish transportation ticket number(s) delivered, and

(g) fish receiving ticket number(s) corresponding to landing date of delivery.

(4) Effective immediately, until further notice, Puget Sound commercial crab license holders, or their designated alternate operators, must register which Crab Management Region that gear will be deployed in for each license they hold prior to the opening date. Registrations must be updated when gear moves between areas. Registrations can be made by registering on the WDFW Puget Sound commercial crabbing webpage or sending an email to crab.report@dfw.wa.gov, detailing the following information:

(a) Vessel Operator Name

(b) Vessel Name and Vessel Registration Number

(c) Permit Number(s) to be Fished

(d) Crab Management Region to be fished

(e) Gear Deployment Date

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Reviser's note: The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of Washington Administrative Code are repealed, effective immediately:

WAC 220-340-42000R Commercial crab fishery—Unlawful acts. (21-231)

WAC 220-340-45500A Commercial crab fishery—Seasons and areas—Puget Sound. (21-231)

WAC 220-352-34000J Puget Sound crab—Additional reporting requirements. (21-231)

**WSR 21-22-114
EMERGENCY RULES****EASTERN WASHINGTON UNIVERSITY**

[Filed November 3, 2021, 10:43 a.m., effective November 3, 2021, 10:43 a.m.]

Effective Date of Rule: Immediately upon filing.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This regulation is necessary to protect the health and safety of campus by providing a mechanism to enforce a COVID-19 vaccine mandate.

Purpose: This regulation is necessary to protect the health and safety of campus by providing a mechanism to enforce a COVID-19 vaccine mandate. In accordance with the direction provided by the Governor in Proclamation 20-12.3 and the department of health's guidelines for institutions of higher education, Eastern Washington University (EWU) is adopting a COVID-19 vaccine requirement and this regulation is necessary for purposes of enforcing the requirement among the student body. EWU adopted this policy as an emergency regulation effective July 7, 2021, as published in WSR 21-15-003. EWU is adopting this emergency rule again as it is currently finishing the rule-making process for this to become a permanent rule. The CR-102 for this rule was filed on October 11, 2021, and published in WSR 21-21-026.

Citation of Rules Affected by this Order: New WAC 172-108-110.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: See purpose above.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 3, 2021.

Annika Scharosch
Associate Vice President

OTS-3186.1

NEW SECTION**WAC 172-108-110 Enforcement of immunization requirements. (1)**

The university may impose a fine on students who fail to provide documentation of an immunization required by the university or obtain a waiver for medical or religious reasons as set forth in EWU Policy 602-02 (Immunizations). The fine may be up to two hundred fifty dollars per term for each academic term a student is enrolled and fails to comply with university requirements. The fine may be waived if the student complies with the immunization requirements within fourteen calendar days from the date notice of the fine is sent to the student as specified below.

(2) The university will provide written notice of the fine to students who fail to comply with the immunization requirements no later than thirty days after the initial date of the academic term. Notice will be sent via email to students' official university emails. Students will be given an opportunity to contest the notice by filing a request for a brief adjudicative hearing within fourteen calendar days of the date when the initial notice is sent to the student's official university email account. To request review of the fine, the student must submit a written request to: Student Rights and Responsibilities, 129 Showalter Hall, Cheney, WA 99004-2496 or via email to srr@ewu.edu. The request must set forth the reasons why the student disagrees with the fine. If a student fails to timely request a brief adjudicative hearing, the fine will become final.

(3) If a student timely files a request for a brief adjudicative hearing, a presiding officer will be appointed and will consider any materials submitted by the student in writing contesting the initial fine. Within ten calendar days of receipt of the request for a hearing, the presiding officer or designee will send an initial order setting forth the officer's decision and the reasons for such decision. The order should also communicate any appeal options available.

(4) The student may appeal the initial order by filing a written appeal with the dean of students within twenty-one calendar days from the date the initial order was sent to their official university email account. To request an appeal, the student must submit a written request to: Dean of Students, 301 Pence Union Building, Cheney, WA 99004-2496 or via email to dos@ewu.edu. The appeal must set forth the reasons why the student believes the initial order was incorrect. If a student fails to timely appeal, the initial order will be final.

(5) If a student timely files a request for an appeal, a presiding officer will be appointed and will consider any materials reviewed by the presiding officer at the initial hearing along with any materials submitted by the student with the appeal. Within twenty calendar days of the receipt of the appeal, the presiding officer or designee will send a final order setting forth the officer's decision and the reasons for such decision. This order will be the university's final decision. The order should communicate that judicial review of the university's decision may be available under chapter 34.05 RCW.

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WSR 21-22-117
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 21-245—Filed November 3, 2021, 10:59 a.m., effective November 5, 2021]

Effective Date of Rule: November 5, 2021.

Purpose: The purpose of this emergency rule is to close retention of wild Chinook in the Quillayute watershed.

Citation of Rules Affected by this Order: Amending WAC 220-312-020.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to require the release of wild Chinook in the areas listed.

In-season data indicates that wild fall Chinook salmon in the Quillayute watershed are returning well below the preseason forecast. This action is required to meet conservation guidelines and ensure that the minimum spawner escapement goal of 3,000 wild Chinook is met.

There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 3, 2021.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-02000Q Freshwater exceptions to statewide rules—Coast. Effective November 5 through November 30, 2021 the following provisions of WAC 220-312-020, regarding recreational Chinook retention for Bogachiel, Calaway, Dickey, Quillayute, and Sol Duc rivers shall be modified as described below. All other provisions of WAC 220-312-020 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

1. Bogachiel River (Clallam Co.), from mouth to Hwy 101 Bridge: Release wild Chinook.

2. **Calawah River (Clallam Co.)**, from the mouth to Hwy 101 Bridge: Release wild Chinook.

3. **Dickey River (Clallam Co.)**, from Olympic National Park boundary upstream to the confluence of the East and West Forks: Release wild Chinook.

4. **Quillayute River (Clallam Co.)**, from Olympic National Park boundary upstream to confluence of Sol Duc and Bogachiel rivers: Release wild Chinook.

5. **Sol Duc River (Clallam Co.)**, from mouth to the concrete pump station at the Sol Duc Hatchery: Release wild Chinook.

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